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इस भाग में भिन्न पृष्ठ सख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

नोटिस

NOTICE

नीचे लिखे भारत के असाधारण राजपत्र 30 अगस्त 1967 तक प्रकाशित किये गये :—

The undermentioned Gazettes of India Extraordinary were published up to the 30th August, 1967 :—

Issue No.	No. and Date	Issued by	Subject
412.	S.O. 2956, dated the 29th August, 1967.	Ministry of Commerce	Further amendment of Export of Gum Karaya (Inspection) Rules 1965.
413.	S.O. 3081, dated the 30th August, 1967.	Ministry of Information and Broadcasting	Approval of the film specified in Column 2 of the Schedule annexed thereto.
414.	S.O. 3082, dated the 30th August, 1967.	Ministry of Home Affairs	Appointment of the Chancellor of the Punjab University by the Central Government.

ऊपर लिखे असाधारण राजपत्रों की प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के नाम मागपत्र भेजन पर भेज दी जाएंगी। मागपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख से 10 दिन के भीतर पहुंच जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

भाग II—खण्ड 3—अध्याय (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय की छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विभिन्न आदेश और प्रत्युत्तराण ।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 4th September 1967

S.O. 3233.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of Section 9 of the said Act shall not apply to the New Bank of India Ltd., New Delhi, in respect of two immovable properties (consisting of land measuring 2200 square yards at Sultanwind Gate and 8860.34 square yards at Majitha Road) held by it in Amritsar, till the 18th July 1968.

[No. F. 15(17)-BC/67.]

V. SWAMINATHAN, Under Secy.

(Department of Revenue & Insurance)

INCOME-TAX ESTABLISHMENTS

New Delhi, the 31st August 1967

S.O. 3234.—In pursuance of clause (b) of sub-rule (ii) of rule 2 of the Appellate Tribunal Rules 1946, the Central Government has been pleased to appoint Shri B. Abraham, Appellate Assistant Commissioner of Income-tax, Madras as Authorised Representative, 2nd Bench of the Income-tax Appellate Tribunal, Madras with effect from the forenoon of 8th August 1967 to appear, plead and act for any Income-tax authority who is a party to any proceeding before the Income-tax Appellate Tribunal.

[No. 288.]

M. G. THOMAS, Under Secy.

MINISTRY OF COMMERCE

New Delhi, the 2nd September 1967

S.O. 3235.—The Government of Gujarat having nominated Secretary, Industries, Mines and Power Department, Government of Gujarat, to be a member of the Central Silk Board under clause (g) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby appoints him as a member of the Central Silk Board with effect from the 18th July, 1967 and makes the following amendment in the notification of the Government of India in the Ministry of Commerce No. S.O. 1272 dated the 10th April, 1967, namely:—

In the said notification after serial number 17, the following shall be inserted, namely:—

"17-A Secretary,
Industries, Mines & Power
Deptt., Government of Guja-
rat, Ahmedabad.

Nominated by the Government of
Gujarat under section 4(3)(g) of
the Act."

S.O. 3236.—The Government of West Bengal having nominated Shri Sunil Das of 60A, Raja Subodh Mallick Road, Calcutta, to be a member of the Central Silk Board under clause (f) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (61 of 1948), in place of Smt. Renuka Ray of 24/1, Ballygunge, Calcutta, the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Commerce No. 1272 dated the 10th April, 1967, namely:—

In the said notification, for the entry against serial number 12 the following entry shall be substituted, namely:—

"12. Shri Sunil Das, 60-A, Raja Subodh Mallick Road, Calcutta-32."

[No. F. 22/1/67-Tex(G).]

DAULAT RAM, Under Secy.

(Office of the Jt. Chief Controller of Imports and Exports)

(Central Licensing Area)

ORDER

New Delhi, the 26th August 1967

S.O. 3237.—Whereas M/s. Keshavjee Durlabhjee Jaipuria & Sons, Bani Park, Kishen Pole Bazar, Jaipur or any bank or any other person have not come forward furnishing sufficient cause, against Notice No. K-7/67/Enf./CLA/2519, dated 7/8th August 1967 proposing to cancel licences No. P/EP/2577797/C dated 28th June 1967 for Rs. 33,803/- for Glass Beads and False Pearls (ii) P/EP/2577798/C, dated 28th June 1967 for Rs. 2,34,577/- for Precious or Semi Precious Stones granted to said M/s. Keshavjee Durlabhjee Jaipuria & Sons, Bani Park, Kishen Pole Bazar, Jaipur by the Jt. Chief Controller of Imports & Exports, (Central Licensing Area), New Delhi, Govt. of India, in the Ministry of Commerce in exercise of the powers conferred by the Clause 9 of the Import (Control) Order, 1955, hereby cancel the said licences No. P/EP/2577797/C dated 28th June 1967 (ii) P/EP/2577798/C, dated 28th June 1967 issued to M/s. Keshavjee Durlabhjee Jaipuria & Sons, Bani Park, Kishen Pole Bazar, Jaipur.

[No. K-7/67/ENF/CLA/2837.]

RAM MURTI SHARMA,

Jt. Chief Controller of Imports & Exports.

MINISTRY OF PETROLEUM & CHEMICALS

New Delhi, the 4th September 1967

S.O. 3238.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from the Ankleshwar Oil Field in Gujarat State to Baroda in Gujarat State Pipeline should be laid by Oil and Natural Gas Commission and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the Land specified in the schedule annexed hereto:—

2. Now, therefore, in exercise of the powers confirmed by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of said user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the Pipelines under the land to the Liaison Officer, competent Authority at Elempeeco, 4th floor, Sayaji Ganj, Opp. College, Lokmanya Tilak Road, Baroda in the office of the Gujarat Pipelines Project (Oil and Natural Gas Commission). Every person making such an objection shall also state specifically whether he wishes to be heard in person or by

SCHEDULE

State—Gujarat	District—Broach	Taluka—Ankleshwar		
Village	Survey No.	Hectare	Ac.	Prai'l Ac.
Ankleshwar	233/2	0	11	32

[No. 31 (41)64-Prod.(vol-II).]

ERRATA*New Delhi, the 1st September, 1967*

S.O. 3239.—In notification of Government of India in the Ministry of Petroleum and Chemicals S.O. No. 162 dated the 31st December, 1964 published in the Gazette of India, Part II, Section 3, in Sub-section (ii) dated the 9th January, 1965; at page No. 179, against Village Bakrol.

For S. No. 2431/2 Read S. No. 2423/2

[No. F. 31(41)/64-Prod. (Vol. I).]

S.O. 3240.—In notification of Government of India in the Ministry of Petroleum and Chemicals S.O. No. 3252 dated the 1st September, 1964 published in the Gazette of India, Part II, Section 3, in the Sub-section (ii) dated 12th September, 1964, at page 3535, against Village Nandesari.

For S. No. 346 Read S. No. 347

[No. F. 31/41/64-Prod (Vol. I).]

New Delhi, the 6th September 1967

S.O. 3241.—In notification of Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1023, dated the 22nd March, 1965, published in the Gazette of India, Part II, Section 3, in the Sub-section (ii) dated the 3rd April, 1965, at page 1103, against village Vejalpur.

For			Read		
A.	G.	Sq. Yds.	Hectare	Ac.	P. Are.
0	11	108 of S. N. 1128	0	0	51
0	4	22 of S. N. 1131	0	10	68

[No. F. 31/41/64-Prod. (Vol. II).]

S.O. 3242.—In notification of Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1023, dated the 22nd March, 1965, published in the Gazette of India, Part II, Section 3, in the Sub-section (ii) dated the 3rd April, 1965, at page 1104, against Village Sarkhej.

Omit Survey No. 215 and other entries against it.

[No. F. 31/41/64-Prod. (Vol. II).]

S.O. 3243.—In notification of Government of India in the Ministry of Petroleum and Chemicals S.O. No. 1021, dated the 22nd March, 1965, published in the Gazette of India, Part II, Section 3, in the Sub-section (ii), dated 3rd April, 1965, at page 1098, against Village Chandalodia.

For			Read		
A.	G.	Sq. Yds.	Hectare	Ac.	Pre-Are. of S. No. 130
0	3	26	0	22	26

[No. F. 31/41/64-Prod. (Vol. II).]

B. S. S.

MINISTRY OF TRANSPORT & SHIPPING

(Transport Wing)

MERCHANT SHIPPING*New Delhi, the 2nd September 1967*

S.O. 3244.—In exercise of the powers conferred by section 218 of the Merchant Shipping Act, 1958 (44 of 1958), read with rules 3 and 4 of the National Welfare Board for Seafarers Rules, 1963, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Transport and Aviation, Department of Transport, Shipping and Tourism (Transport Wing) No. S.O. 1883, dated the 16th June, 1966, namely:—

In the said notification, for the existing entries against serial number 34, the following entries shall be substituted:—

"Shri Leo Barnes, C/o
National Union of
Seamen of India,
4-Goa Street, Bombay-1.

—do—

[No. 14-MT(14)/65.]

K. V. SANKARAN, Dy. Secy.

ERRATA

In the Notification S.O. 2537, dated the 18th August, 1966, of the Ministry of Transport and Aviation published on 27th August 1966 in the Gazette of India, Part II, Section 3, Sub-section (ii) on page 2455, in the last but one line of this Notification, for the words "sub-sec. (8) of Sec. 302" read "Sub-section (3) of Sec. 302".

In the Notification S.O. 2491, dated the 20th July 1967 of the Ministry of Transport & Shipping published on 29th July 1967, in the Gazette of India, Part II, Section 3, Sub-section (ii), on page 2508, in the last line, after B. P. SRIVASTAVA, read "Deputy Secretary" for "Under Secretary".

MINISTRY OF TOURISM AND CIVIL AVIATION*New Delhi, the 14th August 1967*

S.O. 3245.—In exercise of the powers conferred by Section 4 of the Air Corporations Act, 1953 (27 of 1953), the Central Government hereby appoints Shri Bharat Ram as Chairman, Indian Airlines Corporation and Member, Air India Corporation with immediate effect.

[No. 3-CA(13)/66.]

R. C. DUTT, Secy.

MINISTRY OF HEALTH & FAMILY PLANNING*New Delhi, the 6th September, 1967*

S.O. 3246.—In exercise of the powers conferred by sub-section (2) of section 20 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government hereby appoints Dr. J. N. Toyal, Director, Central Indian Pharmacopoeia Laboratory, Ghaziabad as Government Analyst for the whole of India in respect of drugs other than the drugs specified in the Schedule C and C(1) of the Drugs and Cosmetics Rules, 1945.

[No. F.6-4/67-D.]

AMAR NATH VARMA, Under Secy.

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 7th September 1967

S.O. 3247.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No 627, dated 8th March, 1960, the Director General, Posts and Telegraphs, hereby specifies the 1st October, 1967, as the date on which the Measured Rate System will be introduced in IRINJALAKUDA Telephone Exchange

[No 5-47/67-PHB.]

D. R. BAHL,

Assistant Director General (PHB).

संचार विभाग

(डाक-तार बोर्ड)

नई दिल्ली, 7 सितम्बर 1967

एस० ओ० 3247.—स्थायी आदेश क्रमसंख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय सार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने इरिन्जलाकुडा टेलीफोन केंद्र में 1-10-67 से प्रभाविता दर प्रणाली लागू करने का निश्चय किया है।

[सं० 5-47/67-पी० एच० बी०]

डी० आर० बहल

सहायक महानिदेशक (पी० एच० बी०)।

MINISTRY OF INFORMATION AND BROADCASTING**ORDERS***New Delhi, the 4th September 1967*

S.O. 3249.—In pursuance of the directions issued under the provisions of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Films Advisory Board, Bombay, hereby approves the films specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against each in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

- (1) Sub-Section 4 of the Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film
1	2	3	4	5	6
1.	Mahitichitra No. 83	240.78M	Director of Information, Government of Gujarat, Ahmedabad.		Film dealing with news and current events (For release in Gujarat Circuit only)
2.	Mahitichitra No. 84	198.12M	-do-		-do-
3.	Riddhi Siddhi	296.27M	-do-		Film intended for educational purposes (For release in Gujarat Circuit only).

[No. F. 24/1/67-IP App. 1187]

S.O. 3250.—In pursuance of the Directions issued under the provisions of the enactments specified in the First Schedule annexed hereto the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in all its language versions to be of the description specified against it in column 6 of the said Second Schedule.

THE FIRST SCHEDULE

(1) Sub-Section (4) of Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).

(2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XI of 1953).

(3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

THE SECOND SCHEDULE

S. No.	Title of the film	Length 35 mm	Name of the Applicant	Name of the Producer.	Whether a Scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film
1	2	3	4	5	6
1.	Maharashtra News No. 182	296M	Director of Publicity, Govt. of Maharashtra, Bombay 34.		Film dealing with news and current events (For release in Maharashtra Circuit only.)

[No. F. 24/1/67-FP App. 1188.]

S.O. 3251.—In pursuance of the Directions issued under the provisions of each of the enactments specified in the first Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board, Bombay, hereby approves the films specified in column 2 of the second Schedule annexed hereto in Hindi to be of the description specified against each in column 6 of the said Schedule.

THE FIRST SCHEDULE

(1) Sub-section (4) of Section 5 of the Uttar Pradesh Cinemas (Regulation) Act, 1955 (Uttar Pradesh Act No. 3 of 1956).

THE SECOND SCHEDULE

Sl. No.	Title of the film	Length 35mm	Name of the Applicant	Name of the Producer	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film.
1	2	3	4	5	6
1.	Uttar Pradesh Ke Niwasi Bundelkhand	250.55 M	Education Expansion Officer, Uttar Pradesh, Allahabad.		Documentary film for release in Uttar Pradesh Circuit only).
2.	Cement Ki Kahani	-do-	-do-		Film intended for educational purposes (For release in Uttar Pradesh Circuit only)

[No. F. 24/1/67-FP. App. 1189.]

BANU RAM AGGARWAL, Under Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 5th September 1967

S.O. 3252.—In exercise of the powers conferred by sub-section (1) of section 549 of the Code of Criminal Procedure, 1898 (5 of 1898), the Central Government hereby makes the following rules further to amend the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1952, as published with the Notification of the Government of India in the Ministry of Home Affairs No. SRO 709 dated the 17th April, 1952, namely:—

1. These rules may be called the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Amendment Rules, 1967.

2. In the Criminal Courts and Court-Martial (Adjustment of Jurisdiction) Rules, 1952, for clause (IV) of rule 2, the following clause shall be substituted, namely:—

“(iv) “competent Air Force authority” means the Chief of the Air Staff, the air or other officer commanding any Command Group, Wing or Station in which the accused person is serving, or where such person is serving in field area, the officer commanding the forces or the air forces in the field.”

[No. 8/27/67-Judl. II.]

B. SHUKLA, Dy. Secy.

New Delhi, the 7th September 1967

S.O. 3253.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with rule 33 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely:—

1. These rules may be called the Central Civil Services (Classification, Control and Appeal) Third Amendment Rules, 1967.

2. in the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1957, which is deemed to be the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965,—

- (i) in Part I, Central Civil Services, Class I, after serial number 35 and the entries relating thereto, the following shall be inserted namely:—

“36. Central Water Engineering Service, Class I.

37. Central Power Engineering Service, Class I.”;

- (ii) in Part II, Central Civil Services, Class II, after the existing entries but before the heading “General Central Service, Class II” and the entries thereunder, the following shall be inserted, namely:—

“Central Water Engineering Service, Class II—

Posts in the Ministry of Irrigation and Power, and Chambal Control Board.	Joint Secretary.	Joint Secretary.	A 1.
Posts in Central Water and Power Commission.	Chairman, Central Water and Power Commission.	Chairman, Central Water and Power Commission.	All.
Posts in Farakka Barrage Control Board and Ganga Discharge Circle.	Chief Engineer, Ministry of Irrigation and Power.	Chief Engineer, Ministry of Irrigation and Power.	All
Central Power Engineering Service, Class II—			
Posts in Ministry of Irrigation and Power.	Joint Secretary.	Joint Secretary.	All.
Posts in Central Water and Power Commission.	Chairman, Central Water and Power Commission.	Chairman, Central Water and Power Commission.	All.”

[No. 7/4/67-Ests(A).]

P. S. VENKATESWARAN, Under Secy.

CENTRAL BOARD OF DIRECT TAXES

INCOME-TAX

New Delhi, the 1st September 1967

S.O. 3254.—In exercise of the powers conferred by sub-section (1) of section 121 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following amendments to the Schedule appended to its Notification No. 20 (F. No. 55/1/62-IT), dated 30th April, 1963 published as S.O. 1293 on pages 1454—1457 of the Gazette of India Part II Section 3 sub-section (ii) dated the 11th May, 1963 as amended from time to time:

Against S. No. 9A, Madras (Central), Madras under Column 3 of the Schedule appended thereto, the following shall be added:

“7. Central Circle X, Madras”.

This Notification shall come into force with immediate effect.

[No. 95/ F. No. 55/264/67-IT(A.II).]

[No. 95/F. No. 55/264/67-IT(A.II).]

INCOME-TAX

New Delhi, the 2nd September 1967

S.O. 3255.—In exercise of the powers conferred by sub-section (1) of Section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf, the Central Board of Direct Taxes hereby makes the following amendment in the schedule appended to its notification No 68 (50/88/67-ITJ) dated 9th August, 1967 namely:—

Against Poona Range-I, Poona under column 2, the following shall be added:—

13. C-Ward, Panvel.

Explanatory Note

The amendment has become necessary on account of creation of new ward known as C-Ward, Panvel in the Commissioner's charge.

(This note does not form part of the notification but is intended to be merely clarificatory).

[No 88 (F No 50/88/67-ITJ).]

New Delhi, the 5th September 1967

S O 3256—In exercise of the powers conferred by sub-section (1) of section 122 of the Income tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf, the Central Board of Direct Taxes, hereby makes the following further amendments in the Schedule appended to its notification No. 3 (F. No. 50/213/66-ITJ) dated 19-1-1967, namely:—

In the said Schedule under the existing entries in Col. 2 against "B Range, Hyderabad", the following shall be substituted, namely:—

SCHEDULE

Range	Income-tax Circles, Wards and Districts
I	2
B-Range, Hyderabad	<ol style="list-style-type: none"> 1. Ward II A of Hyderabad Circle 2. Ward II-B of Hyderabad Circle 3. Ward II-BB of Hyderabad Circle. 4. Ward II C of Hyderabad Circle. 5. Ward II-D of Hyderabad Circle 6. Ward II DD of Hyderabad Circle 7. Ward II E of Hyderabad Circle 8. Ward II-EE of Hyderabad Circle 9. Circle II, Hyderabad 10. B-Ward, Hyderabad 11. I T-Cum-W. T Circle II, Hyderabad. 12. Survey Circle, Hyderabad 13. Spl Survey Circle I, Hyderabad 14. Spl Survey Circle II, Hyderabad. 15. Survey Circle I, Hyderabad. 16. Survey Circle II, Hyderabad 17. Special Survey Circle (Old), Hyderabad. 18. Mahaboobnagar 19. Sangareddy 20. Gudivada.

Explanatory Note

The amendments have become necessary on account of the creation of three new Wards known as Wards II-BB, II-DD, and II-EE in Hyderabad Circle, Hyderabad, in the Commissioner's charge

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No 92 (F. No. 50/143/67-ITJ)]

S.O. 3257—In exercise of the powers conferred by sub-section (1) of section 122 of the Income tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf the Central Board of Direct Taxes hereby makes the following amendments in the Schedule appended to its Notification No. 76 (F. No. 50/66-ITJ) dated the 9th August, 1966 namely :

In the said Schedule against Patna 'A', Patna 'B', Patna 'C' and Muzaffarpur, under column 2 the following shall be substituted :

- | | |
|--------------------------|--|
| 1. Patna 'A' | 1. D. E. and F. Wards of Patna Circle, Patna.
2. Gaya Circle, Gaya.
3. Ward (ii) of Patna II.
4. Ward (iii) of Patna II.
5. Ward (iii) of Patna I. |
| 2. Patna 'B' | 1. Wards A & C of Patna Circle, Patna.
2. Darbhanga Circle Laheriasarai.
3. Ward (i) of Patna I.
4. Ward (ii) of Patna I.
5. Special Estate Duty-cum-Income-tax Circle, Patna |
| 3. Patna 'C' | 1. Ward B of Patna Circle, Patna.
2. Special Investigation Circle, Patna.
3. Special Circles, Ward A & B Patna.
4. Salary Circle, Patna.
5. Ward (f) of Patna II, Patna.
6. Shahabad Circle, Arrah.
7. Champaran Circle, Motihari. |
| 4. Muzaffarpur | 1. Muzaffarpur Circle, Muzaffarpur.
2. Saran Circle, Chapra. |

This notification shall take effect from 11th September, 1967.

Explanatory Note

The amendments have become necessary on account of the reorganisation of the jurisdiction of AACs, Patna 'A', 'B', 'C' Ranges and AAC, Muzaffarpur Range.

(This note does not form a part of the notification but is intended to be merely clarificatory).

[No. 93 (F.No.50/77/67-ITJ)].

New Delhi, the 11th September 1967

S.O. 3258—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax, Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf and in supersession of all the previous Notifications in this regard, the Central Board of Direct Taxes, hereby directs that the Appellate Assistant Commissioners of Income-tax of the Ranges specified in Column 1 of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to income-tax or Super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in Column 2 thereof :

SCHEDULE

Ranges.	Income-tax Circles, Wards and Districts.
1	2
A-Range, New Delhi.	<ol style="list-style-type: none"> 1. Income-tax Cum Wealth-tax Circles VII, New Delhi. 2. Companies Circles, IV, VII, X, XIII, XIV, XV, XVI, XVII and XVIII, New Delhi. 3. Special Circles I, II, III and IV, New Delhi. 4. B-I, B-I(I), B-(III)(I), B-III, B-XVI, B-XVI(I), and B-XVI(2) Districts, New Delhi. 5. All Government Salary Circles, New Delhi. 6. Evacuee Circle, New Delhi. 7. D-I and D-II Districts, New Delhi. 8. District III, Wards A, A(Addl.), D and O, New Delhi. 9. District V, Wards F & G, New Delhi.

B-Range, New Delhi.

1. Refund Circle, New Delhi.
2. Special Survey Circles I, II, III, IV, V, VI, VII, VIII and IX, New Delhi.
3. District III, Wards A(I), C(I), E(I), G(I), I(I), K(I) and M(I), New Delhi.
4. District IV, Wards A(I), B(I), C(I) and C(II), New Delhi.
5. Special Assessment Circles I, II, III, IV, VI and VIII, New Delhi.
6. Companies Circles I and III, New Delhi.

C-Range, New Delhi.

1. Central Circles, IV, VI, VII and VIII, Delhi.
2. Special Investigation Circles A, B and C, New Delhi.
3. Special Circles and Addl. Special Circles, New Delhi.

D-Range, New Delhi.

1. Income-tax-cum-Wealth-tax Circles I, II, III and IV, New Delhi.
2. Companies Circles V, VI, and XII, New Delhi.
3. A-IV, A-IV(I) Districts, New Delhi.
4. B-V, B-V(I), B-X, B-XII, B-XII(I) Districts, New Delhi.
5. District VIII, Wards E, F, New Delhi.
6. District III, Ward M, New Delhi.
7. District IV, Ward C, New Delhi.

E-Range, New Delhi.

1. Income-tax-cum-Wealth-tax Circles VIII, IX and X, New Delhi.
2. A-I, A-I(I), A-II, A-III and Addl. A-III, Districts, New Delhi.
3. B-IV, B-IV(I), B-VIII, B-VIII(I), B-XI and B-XI(I) Districts, New Delhi.
4. Companies Circles VIII, IX and XI, New Delhi.
5. District VIII, Wards A, B, B(Addl.), New Delhi.
6. District III, Wards, E, F, J, K, L and N, New Delhi.

F-Range, New Delhi.

1. B-IX, Addl. B-IX, B-XIV, B-XIV(I), B-XIV(2), B-XVIII, B-XVIII(I) and Addl. B-XVIII Districts, New Delhi.
2. Income-tax-cum-Wealth-tax Circle XI, New Delhi.
3. District II, Wards, A, B, C, D, A(I), C(I), C(I) (Addl.) and C(II), New Delhi.
4. District V, Wards A, A(I) and B, New Delhi.

G-Range, New Delhi

1. B-XIII, B-XIII(I), B-XV, B-XV(I) B-XV(2) Districts, New Delhi.
2. Income-tax-cum-Wealth-tax Circle V, New Delhi.
3. All Private Salary Circles, New Delhi.
4. District III, Ward-G, New Delhi.
5. District IV, Wards A, B and D, New Delhi.
6. District V, Wards C, D and E, New Delhi.
7. Companies Circles II, New Delhi.
8. District VIII, Ward D(I), New Delhi.

H-Range, New Delhi.

1. B-VI, B-VI(I) B-XVII, B-XVII(1), B-XVII(2), B-XVII(3), B-XVII(4), Districts, New Delhi.
2. Income-tax-cum-Wealth-tax Circle, VI, New Delhi.
3. District III, Ward H, New Delhi.
4. District VI, Wards A, B, C, D, E, A(I), C(I), C(I) (Addl.), New Delhi.
5. Special Assessment Circles, V, VII, IX and X, New Delhi.

I

2

I Range New Delhi

- 1 Income tax Cum Estate Duty Circle, New Delhi
- 2 B-II B-II(I), B VII, B-VII(1) and Addl B VII Districts, New Delhi
- 3 C-I, C I(I), C II and C III Districts, New Delhi
- 4 Foreign Section, New Delhi
- 5 District III Wards B, C, I and P, New Delhi
- 6 District I Ward A, New Delhi
- 7 District VII, Wards A and B, New Delhi
- 8 District VIII, Wards C, D, A(I), A(II), A(III) and A(IV), New Delhi
- 9 District IX, Ward A, New Delhi

J Range, New Delhi

- 1 Central Circles II, III and IV, Delhi

K Range, New Delhi

- 1 Distt V Wards B(I), C(I), F(I), F(I) (Addl) and F(II), New Delhi

This Notification shall take effect from 12th September, 1967

Where an Income-tax Circle, Ward or District or part thereof stands transferred by this Notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this Notification before the Appellate Assistant Commissioner of Income-tax of the Range from whom that Income-tax Circle, Ward and District or part thereof is transferred shall, from the date this Notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of Income tax of the Range to whom the said Circle, Ward or District or part thereof is transferred

Explanatory Note

The amendments have become necessary on account of the creation of new wards and reorganisation of Appellate Ranges in the Commissioner's charge

(The above note does not form part of the Notification but is intended to be merely clarificatory)

[No 98/F No 50/167/67-ITJ]

P G GANDHI, Under Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE MADRAS

CENTRAL EXCISE

Madras, the 1st August 1967

S.O. 3259.—In pursuance of rules 197 and 199 of the Central Excise Rules, 1944, the Collector of Central Excise, Madras hereby empowers all Central Excise Officers of and above the rank of Sub-Inspector of Central Excise in Madras Central Excise Collectorate, who are in Central Excise uniform or who possess an identity card issued to them by an officer not inferior in rank to an Assistant Collector of Central Excise, to exercise within their respective jurisdiction the powers under the said rules

[C No 1/22/44/67-CXA]

S.O. 3260.—In pursuance of rule 200 of the Central Excise Rules, 1944, the Collector of Central Excise, Madras, hereby empowers all Central Excise Officers of and above the rank of sub-Inspector of Central Excise in Madras Central Excise Collectorate, who are in Central Excise uniform or who possess cards showing their identity, to exercise within their respective jurisdiction the powers under the said rule

Provided that the power to search under the said rule shall be exercised by Sub-Inspectors of Central Excise only in relation to unmanufactured products

[C No 1/22/44/67 CXA]

S VENKATARAMAN, Collector.

COLLECTORATE OF CENTRAL EXCISE, WEST BENGAL, CALCUTTA**CENTRAL EXCISE***Calcutta, the 10th August 1967*

S.O. 3261.—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, '44 and in supersession of the earlier Notification No. 3/67 dated the 12th May, 1967 I hereby authorise Junior (upgrade) Superintendents of Central Excise and where a Junior Superintendent is not posted, the Senior Superintendent of Central Excise to exercise the powers of Collector as indicated in proviso to Rules 53 of the Central Excise Rules '44 in their respective jurisdictions.

[No. 5/67]

Calcutta, the 17th August 1967

S.O. 3262.—In exercise of the powers vested in me under Rule 5 of the Central Excise Rules 1944, I empower all the officers of the rank mentioned in Col. 2 of the table below to exercise with in their respective jurisdiction the powers of the Collector under the rules mentioned against each in Col. 3 of the said table, subject to conditions and limitations, if any, indicated in Col. 4 thereof.

TABLE

Sl. No.	Designation of the officers.	No. of Rules.	Conditions and limitations
(1)	(2)	(3)	(4)
(1)	Superintendent.	96ZA(1)	To accept first A.S.P. application for full period for which special procedure can be availed of.
(2)	Do.	96ZA(2)	To accept first A.S.P. application for * period less than the prescribed period.
(3)	Asstt. Collector . . .	96ZA(3)	To determine the period for which * manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him.
(4)	(a) Superintendent . . .	96ZA(4)	To accept renewal application in form A.S.P.
	(b)(i) Superintendent . . .	Do.	To condone delay not exceeding 15 days in submission of A.S.P. application for renewal.
	(ii) Asstt. Collector . . .	Do.	To condone delay exceeding 15 days in submission of A.S.P. application for renewal.
(5)	(i) Superintendent . . .	96ZD(2)	To condone delay not exceeding 5 days ^a in submission of application for removal in form AR-6 and to condone delay not exceeding 5 days in making monthly deposits.
	(ii) Asstt. Collector . . .	96ZD(2)	To condone delay exceeding 5 days in submission of application for removal in form A.R.6. and to condone delay exceeding 5 days in making monthly deposits.
(6)	Adjudicating officers according to their limits of power.	96ZF(i)	To demand duty at full rate for misdeclaration etc.
		96ZF(ii)	To confiscate goods for misdeclaration etc.
		96ZF(iv)	To impose penalty for misdeclaration etc.

POONA CENTRAL EXCISE COLLECTORATE

CENTRAL EXCISE

Poona, the 31st August 1967

S.O. 3263.—In exercise of the powers vested in me under Rule 5 of the Central Excise Rules, 1944, I empower all officers of Central Excise in the Poona Central Excise Collectorate specified in Col. 2 of the subjoined table to exercise within their respective jurisdiction the powers of Collector as in col. 3 under Central Excise Rules shown against each in col. 4 of the said table subject to the limitations set out in col. 5 of said table.

TABLE

S. No.	Rank of the Officer	Nature of the Power	Rule	Limitations
I	Superintendent	(1) To accept first A. S. P. application for full period for which special procedure can be availed of.	96ZA(1)	..
		(2) To accept first A. S. P. application for a period less than the prescribed period.	96ZA (2)	..
		(3) To accept renewal application in form A. S. P.	96ZA(4)	..
		(4) To condone delay in submission of ASP application for renewal.	96ZA (4)	To condone delays not exceeding 15 days.
		(5) To condone delay in submission of application for removal in form AR 10 and to condone delays in making monthly deposits.	96ZD(2)	To condone the Delays not exceeding 5 days.
II	Asstt. Collector	(1) To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him.	96ZA(3)	..
		(2) To condone delay in submission of A.S.P. application for renewal.	96ZA(4)	To condone the delays exceeding 15 days.
		(3) To condone delay in submission of application for removal in form AR 10 and to condone delays in making monthly deposits.	96ZD (2)	To condone delays exceeding 5 days.
III	All Adjudicating Officers.	To impose penalties for mis-declaration etc.		In accordance with their limits of adjudication powers.
		(i) To demand duty at full rate.	96ZF(i)	
		(ii) to confiscate goods	96ZF(ii)	
		(iii) to impose penalty not exceeding Rs. 2000/-.	96ZF (iv)	

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS**(Department of Industrial Development)***New Delhi, the 5th September 1967*

S.O. 3264.—In exercise of the powers conferred by sub-rule (1) of rule 5A of the Companies (Central Government's) General Rules and Forms, 1956, the Central Government hereby appoints the Senior Technical Assistant Office of the Registrar of Companies, Punjab, Haryana, Himachal Pradesh & Chandigarh, Jullundur as prescribed authority for purposes of clause (a) of sub-section (1A) of Section 108 of the Companies Act, 1956 (1 of 1956).

[No. F. 5/5/67-CL.V.]

F. N. SANYAL, Under Secy.

(Department of Industrial Development)**ORDER***New Delhi, the 5th September 1967*

S.O. 3265/IDRA/6/7/67.—In exercise of the powers conferred by Section 6 of the Industries (Development & Regulation) Act, 1951 (65 of 1951) read with rules 5(1) and 8 of the Development Councils (Procedure) Rules, 1952, the Central Government hereby appoints (1) Shri V. D. Jhunhunwala President, Indian Sugar Mills Association, (2) the Joint Registrar of Cooperative Societies (Sugar), Government of Maharashtra, Poona and (3) Shri Chandrika Prasad, M.P. (Lok Sabha) to be members, till the 16th October, 1968, of the Development Council established by the Order of the Government of India, in the late Ministry of Industry No. S.O. 307/IDRA/6/1/67 dated the 11th January, 1967, for the scheduled industries engaged in the manufacture or production of Sugar and directs that the following amendment shall be made in the said Order, namely:—

In the said order, for entries No. 3, 17 and 28 relating to Sarvashri M. R. Shervani, M.P., A. W. Khan and M. L. Jadhav, M.P. (Lok Sabha), the following entries shall be substituted, namely:

- "3. Shri V. D. Jhunhunwala, 11, Moti Bhavan, Collectorganj, Kanpur.
- 17. Joint Registrar of Cooperative Societies (Sugar), Government of Maharashtra, Poona.
- 28. Shri Chandrika Prasad, M.P. (Lok Sabha), 81, South Avenue, New Delhi."

[No. 2(2)/Dev. Council/66/L.C.]


R. C. SETHI, Under Secy.

(Department of Industrial Development)**(Indian Standards Institution)***New Delhi, the 1st September 1967*

S.O. 3266.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 1st September, 1967.

THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. and Title of the Relevant Indian Standard	Verbal description of the Design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1.	IS: 2569 	Malathion water dispersible powder concentrates	IS: 2569-1963 Specification for malathion water dispersible powder concentrates	The monogram of the Indian Standards Institution consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.

[No. MD/17:2.]

S. O. 3267.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks Regulations, 1955), the Indian Standards Institution hereby notifies that the marking fee per unit for malathion water dispersible powder concentrates, details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 1st September 1967

THE SCHEDULE

Sl. No.	Product/Class of Products]	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1.	Malathion water dispersible powder concentrates	IS: 2569-1963 Specification for malathion water dispersible powder concentrates	One tonne	Rs. 5.00

[No. MD/18 :2.]

(DR.) SADGOPAL,
Deputy Director General.

MINISTRY OF LABOUR, EMPLOYMENT, & REHABILITATION

(Department of Labour & Employment)

New Delhi, the 4th September 1967

S.O. 3268.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to Messrs Malabar Steamship Company, Bombay and certain others and their workmen which was received by the Central Government on 31st August 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY
REFERENCE CGIT 12 OF 1966

Employers in relation to:

- (1) M/s. Everest Steamship Corporation, Bombay.
- (2) M/s. Malabar Steamship Company Ltd., Bombay
- (3) M/s. Mackinnon Mackenzie & Company P. Ltd., Bombay
- (4) M/s. National Steamship Company Ltd., Bombay
- (5) M/s. Merchant Steam Navigation Company, Bombay
- (6) M/s. Scindia Steam Navigation Company Ltd., Bombay
- (7) M/s. Forbes Forbes Campbell and Company Ltd., Bombay
- (8) M/s. Killick Nixon & Company Ltd., Bombay
- (9) M/s. Ambica Steam Navigation Company Ltd., Bombay
- (10) M/s. New Dholera Steamship Company, Bombay
- (11) M/s. South East Asia Shipping Company Ltd., Bombay
- (12) M/s. Bombay Steam Navigation Company Ltd., Bombay
- (13) M/s. Anchor Line Ltd., Bombay
- (14) M/s. Great Eastern Shipping Company Ltd., Bombay

AND

their workmen represented by the Transport and Dock Workers' Union, Bombay.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the employers.—Shri L. V. Uttamsingh, Personnel Officer, for the Great Eastern Shipping Co. Ltd., Bombay (No. 14). Shri S. M. Baxi, Advocate for the Malabar Steamship Co. Ltd., (No. 2) for the National Steamship Company Ltd., (No. 4) and the New Dholera Steamship Company, Bombay.

For the workmen.—Shri H. K. Sowani, Advocate, with Shri S. R. Kulkarni, Secretary, Transport and Dock Workers' Union.

STATE: Maharashtra

INDUSTRY: Shipping.

Dated at Bombay this the 26th day of August 1967.

AWARD PART I

The Central Government on the joint application of the parties abovenamed by the Ministry of Labour and Employment's Order No. 28/101/65-LRIV dated 14th March 1966, made in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (Act 14 of 1947) was pleased to refer the industrial dispute in respect of the subject matter specified in the following schedule to the said order to me for adjudication:—

SCHEDULE

"Whether the employers listed herein are justified in not implementing the interim recommendations of the Wage Board for Port and Dock Workers and published *vide* Government of India, Ministry of Labour and Employment Resolution No. WB21(13)/65 dated the 27th April, 1965 in respect of their employees at Bombay? If not, to what relief are the employees entitled to and from which date?"

2. After the usual notices were issued inviting written statements from the parties, at the hearing of this dispute before me on 28th June 1967 it was stated that Messrs Merchant Steam Navigation Company (Serial No. 5) and Messrs South East Asia Shipping Co. Ltd., Bombay (Serial No. 11) had paid both the interim wage increases recommended by the Wage Board for the Port and Dock Workers and therefore the demand under reference with regard to the above two companies was satisfied.

At a later hearing of this dispute on 24th July 1967 a joint application was filed by the Great Eastern Shipping Co. Ltd., Bombay (Serial No. 14) and the Transport and Dock Workers' Union, Bombay regarding the terms of settlement reached between them. A copy of the said application is annexed hereto and marked annexure A and I make an award in terms thereof.

At the above hearing it was stated by Shri H. K. Sowani, Advocate, representing the Transport and Dock Workers' Union that the claim in this reference against Messrs Malabar Steamship Co. Ltd., (Serial No. 2) Messrs National Steamship Co. Ltd., (Serial No. 4) and Messrs Dholera Steamship Company, Bombay (Serial No. 10) had been satisfied and therefore no claim against these companies survived.

In the result by this Award Part I, I dispose of this reference in respect of the six companies referred to above in terms recorded above.

This Award Part I is directed to be submitted to Government under Section 15 of the Industrial Disputes Act.

(Sd.) SALIM M. MERCHANT,
Presiding Officer-

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY
REFERENCE CGIT 12 OF 1966

Employers in relation to the Great Eastern Shipping Co. Ltd., Bombay,

AND

Their Dock Employees represented by the Transport & Dock Workers' Union, Bombay.

May It Please the Hon'ble Tribunal:

We, the parties abovenamed have reached the following settlement which is without prejudice to our rights and contentions as set out in the respective statements of the parties filed in the above reference and pray that an Award may be made in terms of this settlement by this Hon'ble Tribunal in conclusive determination of the demand for monetary relief to the aforesaid dock employees covered by this reference as well as covered by their letter No. TD/183/2865/66 dated 26th December 1966.

The Company will pay to its monthly paid dock employees such increases in the special allowance with effect from such dates as tabulated under:

Pay Range	Increase in special allowance per month	Date from which the increase is to operate
A. All Dock Employees	Rs. 7.80	1-2-1965
B. All Dock Employees	Rs. 4.00	1-8-1966
C. (1) Re. 1 to Rs. 109	Rs. 6.00	1-8-1966
(2) Rs. 110 to Rs. 149	Rs. 9.00	
(3) Rs. 150 to Rs. 209	Rs. 12.00	
(4) Rs. 210 to Rs. 399	Rs. 14.00	
(5) Rs. 400 to Rs. 1000	Rs. 15.00	

In regard to the daily rated dock workmen, each will be paid per shift the above amounts appropriate to his wage slab by dividing the increased special allowance by 26.

It is further agreed that the aforesaid increases in the special allowance shall be treated in the same manner as the Company has hitherto treated the existing special allowances.

The amounts due to the Dock employee under the provisions of this settlement shall be paid within 45 days hereof.

Dated at Bombay this 24th day of July, 1967.

For The Great Eastern Shipping
Company Ltd., Bombay.

(Sd.) Illegible.
Personnel Officer.

For the Transport and Dock
Workers' Union, Bombay.

[No. 28(101)/65-LRIV.]

New Delhi, the 6th September 1967

S.O. 3269.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay in the industrial dispute between the employers in relation to Bombay Port Trust, Bombay, and their workmen which was received by the Central Government on 1st September, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BOMBAY

REFERENCE No. CGIT-58 of 1964

Employers in relation to the Bombay Port Trust

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

For the Bombay Port Trust.—Shri S. Nariman, Solicitor of Messrs Mulla and Mulla and Craige Blunt and Caroe, Solicitors with Shri R. K. Shetty, Deputy Legal Adviser.

For the Bombay Port Trust Employees' Union.—Shri V. K. Tembe, Advocate, with Dr. Shanti Patel, President and Shri S. K. Shetye, General Secretary.

Bombay dated 30th August 1967

INDUSTRY: Major Ports.

STATE: Maharashtra.

AWARD

On a joint application of the parties above-named dated 21st December 1963, the Central Government by the Ministry of Labour and Employment Order No. 28/120/63.LR.IV dated 29th May 1964 made in exercise of the powers conferred by Section 10(2) of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between them in respect of the following two matters specified in the said joint application of the parties, to me for adjudication:

- “(a) Whether the system of fixing the staggered weekly days of rest for the staff employed in the Engineering department needs any change, and if so, in what respect?
- “(b) Whether having regard to the existing manner of granting the weekly days of rest and of the circumstances of the case, the workmen are entitled to claim that they have worked on their weekly rest days and therefore be paid any wage or compensation whatsoever, and if so, from what date?”

2. The Bombay Port Trust Employees' Union (hereinafter referred to as the “Union”) filed its statement of claim dated 10th November 1965 to which the Bombay Port Trust filed its written statement in reply on 8th March 1966, after which the dispute was taken up for hearing.

3. In its written statement and at the hearing the Bombay Port Trust raised a preliminary objection that the demand under reference is barred on the principle analogous to the principle of resjudicata in as much as the following similar demands which were referred for adjudication in an earlier industrial dispute, being Reference No. 3 of 1954 to Shri M. R. Meher, Industrial Tribunal, were rejected by his Award dated 3rd September 1954 and there has since been no change in the circumstances on which that Award was based. The demands which were referred to Shri Meher for adjudication were:

- “(i) Whether the changes introduced by the Port Trust in regard to the new shift working hours, timings of shifts, weekly off days, working hours on Saturdays and rest intervals, are fair and reasonable; if not, in what respect modifications are necessary and what relief should be granted to the workmen and from what date?
- “(ii) Whether the workmen should be paid compensation for the loss of overtime payment which they have been receiving in the past?”

Shri Meher rejected the demand and held that it was open to the employers to stagger the weekly days of rest and the workers were not entitled to a fixed day of rest on Sundays but awarded that for work on Sundays the workmen should be paid wages at $1\frac{1}{2}$ times their earning rate of pay. Both the Bombay Port Trust

(hereinafter referred to as "B.P.T.") and the Union appealed to the Labour Appellate Tribunal being Appeals Nos. 255 and 256 of 1954 and the Labour Appellate Tribunal by its decision dated 3rd May 1956 (Para 6) rejected the Union's appeal holding that whether there should be staggering or not was a matter within the jurisdiction of the adjudicator to decide and since it raised no question of law, no appeal on the pointlay, as to the rate of payment to be made for work on Sundays the Labour Appellate Tribunal was of the opinion that it was obvious that the moment a system of staggering weekly day of rest is recognised, Sunday loses its special significance and any special payment made for work done on Sunday as such creates a discrimination in favour of these workmen, who are not given extra allowance for work on Sundays although that day is not their weekly day of rest, and they, therefore, allowed the Appeal of the Bombay Port Trust and set aside the direction in Shri Meher's Award for extra payment for work on Sundays.

4. It appears that the Award in Reference No. 3 of 1954 was terminated by two months' notice given by another Union viz., the Bombay Stevedores and Dock Labourers' Union. This Union viz. the Bombay Port Trust Employees' Union, had at that time by its notice dated 28th May 1962 objected to the notice of the Bombay Stevedores Dock Labourers Union and had stated that it desired that the Award should continue to apply to it (Ex. 2). The B.P.T. in its reply dated 19th June, 1962 relied upon the decision of the Supreme Court in the case of the Associated Cement Companies Ltd. versus its workmen (1960 I.L.L.J. page 491), and contended that termination of the Award by a minority Union was valid. It further stated that in respect of the termination of the Award, the rights and obligations of the parties under the Award sought to be terminated, continued until a new settlement or arrangement was reached or a fresh Award was made (Ex. E-3). However, at the hearing before me, the admitted position by both parties was that the Award under Reference No. 3 of 1954 had been validly terminated. It, however, appears that at a later stage there was exchange of letters between the Union and the Bombay Port Trust and ultimately, as stated earlier, by a joint application dated 21st December 1963 the parties applied for Reference to this dispute to adjudication under section 10(2) of the Industrial Disputes Act. It is necessary to state that at that time both parties viz. the B.P.T. and the Union, had specifically agreed that their joint application for adjudication was without prejudice to the right of both parties, "to raise issues regarding binding character, interpretation, effect, scope, etc. of the Award in Reference ITCG 3 of 1954."

5. This preliminary objection was argued as a preliminary point of jurisdiction and I was asked to give my ruling thereon before proceeding with the dispute on its merits. Thereupon by my Order dated 31st May 1966, after considering the authorities cited by both the parties and the submissions made by them, I held that the question whether this industrial dispute was barred on the application of the principle analogous to the principle of *res judicata* was a mixed question of fact and law and I concluded the order by observing:—

"It appears to me that this is a mixed question of fact and law and I am therefore not prepared to dispose of this dispute *in limine* on the ground that it is barred by *res judicata*".

Accordingly I directed that the dispute should be heard on the merits.

6. The dispute was, therefore, taken up for hearing on the merits before me, and the parties concluded their submissions on 19th April 1967. I have had the benefit of full and detailed submissions on the preliminary point of jurisdiction and on the merits of the case, but before I deal with the preliminary objection, it is, in my opinion, necessary to state the stand taken by both the parties in their respective written statements.

7. The Union in its written statement of claim dated 10th November 1965 has stated that in the past Sunday used to be the fixed day of weekly rest for the employees of the B.P.T. and that the system of staggered weekly days of rest, which according to it, the B.P.T. had introduced and was continuing in the teeth of the opposition of the Union, is neither proper nor legal, and it has submitted that Sunday ought to be the fixed day of weekly rest. It has stated that the Minimum Wages Act, 1948 and the Rules made thereunder were applied by the Government of India to certain categories of workmen employed under the B.P.T. from 5th March 1951 and to some others from 28th March 1952. But the B.P.T. did not implement the provisions of the statute on the plea that it desired to seek exemption with retrospective effect. It appears that the Union carried on an agitation for implementation of the Minimum Wages Act and even initiated legal proceedings against the B.P.T. Recourse was sought by a petition filed in the High Court of Bombay in 1953 being Miscellaneous Application No. 153 of 1953 by a petition under Section 45 of the Specific Relief Act for a writ of Mandamus directing the Chairman of the B.P.T. to give weekly holidays to the workmen under the Minimum Wages (Central),

Rules 1950 framed under the Minimum Wages Act, 1948. In dismissing the petition his Lordship Shri Desai J. in his judgment dated 22nd July 1953 (copy of which is annexed to the Union's written statement as Annexure A) commented adversely against the B.P.T. in not implementing the provisions of the Minimum Wages Act and its Rules.

8. As a consequence, the B.P.T. implemented the provisions of the Minimum Wages Act in or about July or August 1953 with effect from 15th March, 1951, including those to whom the provisions of the Act did not apply. The Union has further stated that in or about December 1953, the B.P.T. introduced a system of staggered weekly days of rest in one section after another of the Engineering Department. In the beginning the staggered rest day was notified on Saturday, but later it started notifying this staggered rest days three months in advance in certain sections of the Engineering Department. Later, staggered rest days were introduced in the remaining sections of the Engineering Department. By 1965, except for the Electrical Establishments, a particular day was notified as staggered weekly off day for each workman for the period of three months in all sections of the Engineering Department. In the Electrical Establishment the staggered rest day though notified for a period of three months in advance, varies from week to week, i.e. it may be on a Monday in one week, Tuesday in the second week and Wednesday in the third week, and so on. This resulted in the weekly off day varying from one section to another and from one category of workmen to another and even amongst workmen belonging to the same category or class. The Union has alleged that it had agitated against the system of staggered holidays and had demanded that the system of granting fixed weekly off on Sundays, which according to it, had been in existence since its inception, should be continued. The resulting industrial dispute was as stated by me earlier referred to Shri Meher for adjudication who awarded 1½ times wages for work on Sundays which direction was set aside in appeal by the Labour Appellate Tribunal. At the hearing before Shri Meher the lengthy correspondence that late Tribunal. At the hearing before Shri Meher the lengthy correspondence that passed between the parties has been referred to in paras 10 to 20 of the Union's written statement and copies thereof have been annexed thereto.

9. It appears that before the Labour Appellate Tribunal Shri S. S. Kavlekar, the learned Counsel for the Union, had conceded that under the Minimum Wages Act staggering of weekly day of rest is permissible under the statutory law applicable in this case, i.e. the Minimum Wages Act, but the Union has argued in this case that the concession being on a point of law, was not binding on the Union, which was free to agitate it before this Tribunal.

10. In Para 25 of its written statement, the Union has submitted that the practice followed by the B.P.T. was on an assumption made by it and on the finding that Sunday was a fixed day of rest and the weekly off given on a day other than Sunday was assumed to be a substituted or an alternative rest day. In support, it has relied upon notice dated 18th November 1953 of the Chief Engineer (Annexure 'B' to its written statement) in which he had stated that from Sunday 6th December 1953, weekly holiday on average daily wages would be granted as required by Rule 23 of the Minimum Wages (Central Rules) 1950. The notice further went on to state that "the weekly holiday shall be Sunday except in the case of such of the staff as shall be called to work on that day who will then be entitled to substitute weekly off which will be intimated to them....." The staff were also informed that, "they will be given substituted weekly off as stated above, and will not be called for duty on Sundays again until after the other members of the staff have had their turn in strict rotation". In pursuance of their notice of the Chief Engineer, workmen are being notified staggered days of weekly rest, in the beginning and many a times orally, on Saturday and later on in advance for three months at a time. The Union has stated that after the judgment of the Labour Appellate Tribunal dated 3rd May 1956 in Appeals, Bombay Nos. 255 and 256, the Union in letter dated 29th August 1956 had stated that wherever staggering system of weekly off is introduced weekly off days for a workmen should be fixed for a period of one year. It has also referred to the letter dated 14th September 1947 from the B.P.T. in which it was stated that the above demand had been brought by the Union on the B.P.T. undertaking to fix weekly off days in advance for three months at a time, and the Union has admitted that since that time the staggered day of rest is fixed in advance for three months at a time. It has stated that the convenience of the workmen is that they have advance knowledge whether they will be required to work on Sundays and in such cases on all the other days they will have a substituted rest day. The Union, in Paragraphs 27, 28 of its written statement, has referred to the previous correspondence in which it had complained that till 11th February 1960 the workmen were not paid arrears for work done on the workmen's day of rest. It has then referred to the letter

dated 11th February, 1960 in which the B.P.T. has stated that under the decision, payment of extra wages was to be made for work done on the weekly day of rest. Such payment for work done on Sunday had been made whenever Sunday happened to be the weekly day of rest of the workmen concerned. Thereupon the Union, in correspondence, reiterated the decision that it had taken up viz., Sunday was the fixed day of rest and some other points in support of this conclusion were also stated in the correspondence which it has annexed as 'Annexure C' to its written statement. In the meantime the Union took up the matter with the R.L.C. (Central), Bombay, and according to it the dispute came to a head in the Mobile Crane Section when the B.P.T. agreed that Sunday would be considered the fixed weekly day of rest since August 1960, which has continued till today. Certain correspondence followed but no settlement was reached, and after some further correspondence it was agreed to make a joint application for adjudication to the Tribunal, as a result of which the present reference was made.

11. It is necessary to state that there was an earlier reference in respect of only the Electrical Section of the Engineering Department, bearing CGIT No. 1 of 1963, made to this Tribunal, but in view of the present reference an application was made by both parties withdrawing that reference, and this Tribunal, therefore, allowed that reference to be withdrawn.

12. In Para 33 of its written statement, the Union has submitted that the main purpose of the B.P.T. in introducing the staggering system is to avoid the obligation to pay the moneys which the B.P.T. is legally liable to pay under a fixed system of fixed weekly off day. The Union has submitted that the conduct of the B.P.T. in introducing the staggering weekly day of rest is mala-fide, malicious and vexatious. It has objected to the rotating system of weekly off days, on the ground that it deprives the workmen of the benefits of fulfilling the special obligation which can be more effectively done on a Sunday and because according to it variable day of rest is not conducive to efficiency and health. It has suggested that it is not only easy but quite practicable to have a system of fixed day of rest, and has in support cited the instance of the Scindhia Workshop Ltd. and the Mazagaon Dock Ltd., which according to it, are comparable concerns, and which follow the system of fixed-weekly off day. It has submitted that the B.P.T. is guilty of discrimination between employees in one section and another and also between each group of workmen.

13. In Para 35 of its written statement, the Union has, without prejudice, stated that in the event of the Tribunal coming to the conclusion to permit staggering method, it should award some concessions for the "extra strain and inconvenience resulting by the application of such system".

14. In Para 36 the Union has referred to the large profits which the B.P.T. has been earning year after year and has stated that it should not hesitate to incur the additional expenditure upon the introduction of the fixed system of weekly off day and that, on the contrary, as a public body, they should be ideal employers. It has urged that the B.P.T. itself was attaching a special significance to Sunday work in as much as it was charging Shipping Companies at a higher rate for the work, done by it for them on Sunday. The Union has stated that the "alternative substituted" or "compensatory off" is no proper compensation for the lack of conveniences and amenities suffered by the workmen by working on Sundays. It has suggested that in no other industries there is a system of staggered weekly offs and that the system in force was un-just and inequitable. The Union has stated that the ground of practicable inconvenience urged by the B.P.T. did not warrant a system of staggered weekly days of rest.

15. In Para 40 of its written statement, the Union has urged that there should be a system of fixed day of weekly rest, and that day should be a Sunday and if, owing to the exigency of work, a workman has to work on Sundays, he should be paid overtime payment at double the ordinary rate of wages in addition to "a compensatory off".

16. In Para 41 of its written statement the Union has stated that in the event, the Tribunal came to the conclusion that the fixed system of weekly day of rest should not be awarded, and Sunday cannot be fixed as a day of weekly rest, then a weekly day of rest should be fixed in advance for a period of 2 years at least and this day should be the same for particular workmen throughout the period. Even in spite of this, compensation in the form of higher wage as claimed should be avoided.

17. In Paras 42 to 45, the Union has reiterated the submissions made in the earlier part of its written statement, in opposing the staggered weekly day of rest,

and in Para 46 it has stated that the so-called staggered weekly day of rest is nothing but a system of "alternative day of weekly or compensatory off" and has claimed that Sunday ought to be considered to be the fixed day of weekly rest.

18. In Para 47 the Union has stated that on 6th April 1962, the Bombay Stevedore and Dock Labourers Union gave a notice to the Bombay Port Trust, terminating the Award in reference 3 of 1954, as modified by the L.A.T.'s decision, with effect from 8th June 1962. The Union has submitted that not withstanding any such termination and a change in service conditions brought about, with the consent of the parties, rights created by the Award remained unaffected and continued to be available to the workmen.

19. In Para 48 it has submitted that in the B.P.T. and elsewhere substantial changes had taken place in the condition of work, retiral facilities available to labour and a general rise in the cost of living, which changes warrant the giving of relief to the employees whatever be the decision about the valid effect and expenditure of continuance of the Award in Reference No. 3 of 1954.

20. I may, however, pause here and state that the B.P.T. in its written statement has pointed out that when the Bombay Stevedore and Dock Labourers Union gave a notice terminating the Award in Reference No. 3 of 1954, this Union had opposed the termination of that Award and had argued that the termination thereof was no legal and proper, but the B.P.T. relying upon the decision of the Supreme Court, had in correspondence, expressed the opinion that the Award was validly terminated. It is in view of this decision, that in Para 49 of its written statement, this Union has stated that in the event the Tribunal took the view that the said award had expired by flux of time and that it was not validly terminated, the Union has submitted that the liabilities, if any, created by an Award against the employees, cannot extend beyond the period for which the Award was originally effective. The Union in Para 51 of its written statement has contended that the new rule by which the original Rule 30 of the Minimum Wages Act, was substituted by the Central Government was *ultra-vires* in as much as it went beyond the powers conferred under the Minimum Wages Act, and was in contravention of its provisions. Without prejudice, the Union has submitted that under the provisions of the Minimum Wages Act, and the Rules thereunder made by the Central Government (both prior to and after 1960) the employees have a right to recover the amount spent by them. In Para 53 it has submitted, without prejudice, that in any event proper orders and directions can be given by this Tribunal in the present reference to safeguard the rights of the employees for the entire period commencing from 1951, and that retrospective effect should be given to its demands from the date of the application of the Minimum Wages Act, i.e. 15th March, 1951, and in the alternative at least with effect from the date on which the Award in Reference No. 3 of 1954 came into operation i.e. 1st December 1954.

In para 55, the Union has claimed that the workmen should be paid interest on the amount which according to it, "the employees have been deprived of the use of the additional amounts, which ought to have been paid every month", and because the Port Trust had, had the use of that money". The Union has, therefore, in para 55 stated its claim to be as follows:—

"The Union prays that from the period 1951 till the date when the staggered system is altered, the employees should be paid overtime wages at double the ordinary wages, with interest on such amount from 1951, from the date on which the amount became payable from month to month or from such other date or dates as this Hon. Tribunal may determine at the rate of 6 per cent per annum."

21. The Bombay Port Trust in its written statement dated 8th March, 1966, has stated that the Union's contention with regard to clause (b) of the terms of Reference was entirely untenable both at law and on the merits. It has submitted that similar dispute had been raised by the workmen in or about the year 1961 restricted only to workmen in the electrical section of the Engineering Department which was referred for adjudication to this Tribunal being Reference CGIT-1 of 1963 and that the present dispute had been raised by the Union covering all the sections of the Engineering Department during the pendency of that dispute. It has further submitted that even earlier, in the year 1953, the Union had raised a similar dispute relating to the staggering of the weekly day of rest for all sections of the Engineering Department which dispute was referred to the Industrial Tribunal of Shri M. R. Meher being Reference ITCG 3 of 1954, who by his award rejected the demand, holding in effect that it was open to the employers to stagger the weekly day of rest and the workmen were not entitled to a fixed day of rest on Sundays. In view of the award in

Reference ITCG 3 of 1954, the Bombay Port Trust had pointed out to the Union that it was not open for it to raise the same dispute in relation to the workmen of the Engineering Department who are covered by the said Award. But as the Union persisted for further reference, it was ultimately agreed that the present dispute be referred to adjudication through joint application, without prejudice to the rights of both parties to raise issues with regard to the binding character, interpretation, effect, scope, etc. of the award in Reference ITCG 3 of 1954. The Bombay Port Trust has annexed to its written statement Union's letter dated 18th September, 1963, addressed to the Secretary of the Port Trust and his reply thereto dated 2nd November, 1963 (Annexure No. 1 collectively). It was on this reservation that finally this reference was made.

22. The Bombay Port Trust in Para 4 of its written statement has raised the preliminary legal objection that on principle analogous to the principle of *res judicata* this Tribunal will refuse to entertain the dispute which is substantially the same as the dispute relating to the staggering of the weekly day of rest which was heard and disposed of by Shri Meher in his award in the said reference No. 3 of 1954.

23. I have by my order, dated 31st day of May, 1966, dealt with this preliminary objection. In my order after stating the submissions of both the parties, I had in para 8 of my order stated as follows:—

"In my opinion, the question under reference is a mixed question of both fact and law. It appears that the following three questions would arise under this reference:

- (i) The question of fact whether prior to the implementation of the Minimum Wages Act, Sunday had been the uniform day of rest, as contended by the Union.
- (ii) whether staggering of the weekly day of rest is in fact substitution as contemplated by the Minimum Wages Act and its Rules.
- (iii) Whether such staggering is legal or not, under the Minimum Wages Act."

In the concluding para of my order I expressed the opinion on the objection to jurisdiction on principles analogous to *res judicata*, was a mixed question of fact and law, it would not be proper to dispose of this preliminary objection *in limine* and that it would be proper to decide the objection after taking into consideration the evidence, both oral and documentary.

Having now considered the oral and documentary evidence my findings on these three questions for reasons stated hereinafter are (1) No. (2) Yes and (3) Yes.

24. To proceed, the Bombay Port Trust in para 6 of its written statement has denied the Union's allegation that Sunday used to be in the past a fixed day of weekly off and has stated that this allegation was incorrect and misleading to the knowledge of the Union. It has stated that wherever having regard to the work, it was administratively practicable to give a weekly off on Sunday, this was being done in some of the sections of the Engineering Department. It has stated that Sunday is being observed as a fixed day of weekly rest in the Dry Docks, the Bombay Port Trust Chain-Testing House, the various repairs shops of the Port Trust and the General Works, because the nature of the work done at these sections is such as to permit the entire closure of the sections on Sunday. It has stated that Sunday has not been and at present is not the weekly day of rest in the following establishments:—

Electrical Establishments,
Hydraulic Pumping Stations,
Hydraulic Establishments,
Princes and Victoria Docks,
Hydraulic Establishments Alexandra Docks,
Oil Pipe and Pipe Line Pir Pau,
Marine Oil Terminal, Butcher Island,
Oil Pipe Line Alexandra Dock,
Electrical Establishments and Power House,
Butcher Island,
Loco shed Wadala,
Loco Shed, Diesel Shed, Boosting Stations, A.B.C.,
Wagon Repairs Section.

25. The Bombay Port Trust has urged that in Reference No. 3 of 1954, which, *inter alia*, involved a dispute relating to the staggering of the weekly day of rest, the Union had made an incorrect allegation that Sunday had been a fixed

day of rest for all employees prior to the implementation of the Minimum Wages Act. It has, in that connection, relied upon the observations contained in para 27 of Shri Meher's Award which it has reproduced in Para 8 of its written statement.

26. The Bombay Port Trust in Para 9 of its written statement has set out the three grounds on which Shri Meher directed that the workmen should be paid at the rate of 11 times their own basic wages for work on Sundays and has pointed out that in appeal the Labour Appellate Tribunal by its decision, dated 3rd May, 1966, in Appeal BOM No. 255 of 1954 and 256 of 1954, upheld Mr. Meher's Award relating to the staggering of the weekly day of rest, but set aside the direction relating to the payment for Sunday work at a higher rate, and it has extracted the observations and directions of the Labour Appellate Tribunal on these points. The Port Trust has relied upon the observation of the Labour Appellate Tribunal that the moment the system of staggering of the weekly day of rest is recognised, Sunday loses its special significance and any special payment made for work on Sunday as such would be a discrimination in favour of those workmen who are given an extra allowance for working on Sunday although that day is not their weekly day of rest.

27. In Para 10 of its written statement the Bombay Port Trust has denied that their negotiations for a settlement had failed due to the lack of endeavour on the part of the employers, and in Para 11 it has pointed out that after Shri Meher's Award, the Union had first demanded that under the system of staggering of the weekly day of rest, the weekly off should be fixed for a period of one year, but had later dropped the demand on the Bombay Port Trust undertaking to fix the weekly off day in advance for three months at a time; that thereafter the Union repudiated this settlement and demanded that during this period of three months the employee should have his weekly off always on the same day of the week, and later demanded that Sunday should be fixed as a weekly day of rest for all the employees of the Electrical Establishment, and thereafter raised the present dispute demanding that Sunday should be the fixed day of rest for all the employees in the Engineering Establishment. The Bombay Port Trust has stated that it would not be feasible in many of the sections of the Engineering Department to give an employee his weekly day of rest during a period of three months always on the same day of the week and that the demand that Sunday should be a fixed day of rest for all the employees of the Engineering Department is still more impracticable. The Bombay Port Trust has annexed the correspondence exchanged between the parties as also the letter addressed by the Bombay Port Trust to the Regional Labour Commissioner, dated 30th November, 1961.

28. In Para 12 of its written statement the Bombay Port Trust has refuted the Union's allegation that the Chairman of the Bombay Port Trust refused to implement the provision of the Minimum Wages Act under the pretext of seeking exemption with retrospective effect and it has in that connection filed a copy of its Resolution No. 493 of 1953 of the Trustees, which points out the unsuperable administrative difficulties in the immediate implementation of the Minimum Wages Act.

29. In Para 13 the Bombay Port Trust has denied the allegations contained in Para 7 of the Union's statement of claim that at present except in the Electrical Establishments, the particular date is notified as the rest day for a particular man for a period of three months.

30. With regard to Para 19 and 20 of the written statement of the Union, the Bombay Port Trust has relied upon the observations in the Meher Award and the decision of the Labour Appellate Tribunal in appeals therefrom.

31. In Para 15 of its written statement, the Bombay Port Trust dealing with the allegations made in Para 21 of the Union's statement of claim has stated that the submissions therein made are irrelevant. It has urged that the fact that the Minimum Wages Act and the rules made therein permit staggering of the weekly day of rest cannot be disputed and the admission of that fact by Shri S. Kavlekar, the Advocate for the Union at the hearing of the appeals before the Labour Appellate Tribunal was not in fact any concession made by him as alleged by the Union, and that the judgment of the Labour Appellate Tribunal was not based on the alleged concession. It has stated that the Labour Appellate Tribunal in its judgment had made it clear that in its opinion the Minimum Wages Act and the Factory's Act contemplate staggering of the weekly day of rest and the appeal of the Union on this issue was rejected on the ground that the decision whether there should be staggering or not was a matter within

the jurisdiction of the Adjudicator and since it raises no question of law, no appeal on the point lay to the Appellate Tribunal.

32. In Para 16 of its written statement the Bombay Port Trust has denied the construction sought to be placed by the Union on the notice dated 18th November, 1953, issued by the Chief Engineer under his own signature and has stated that that construction is patently incorrect and distorted. According to the Bombay Port Trust that notice made it abundantly clear that employees were eligible to be called to work on Sunday if necessary and would then be entitled to a substituted weekly day of rest which would be intimated to them.

33. The Bombay Port Trust has denied the statements contained in Paras 27 and 28 of the Union's statement and has stated that the said allegations and contentions are wholly irrelevant except that the facts stated therein show the Union's persistence in keeping alive a dispute which had been finally resolved by the Award of Shri Meher and the decision of the Labour Appellate Tribunal.

34. In Para 18 of its written statement, the Bombay Port Trust has denied the Union's allegations that the motive in introducing a system of staggering of the weekly day of rest is to save money and it has stated that behind the various pretexts of inconvenience and hardship which have been trotted out by the Union, the real underlined motive of the Union is so secure a system of working under which workmen would be required to work on the weekly day of rest so as to provide an opportunity for earning overtime.

35. With reference to Para 34 of the Union's statement, the Bombay Port Trust has stated that it is a mere rehash of the Union's submissions and contentions in Reference No. 3 of 1954 which were brushed aside by Shri Meher and also the Labour Appellate Tribunal. The Bombay Port Trust has denied that it would be practicable or feasible to have Sunday as a fixed day of weekly rest. It has denied that there has been any discrimination on its part in the matter of implementing the system of staggering of the weekly day of rest. It has reiterated that in sections where it is feasible to give to workmen a fixed weekly off on Sunday, such weekly off is given to the workmen whereas in other sections where it is not so feasible the workmen get their weekly day of rest on any day in the week. The Bombay Port Trust has denied that the weekly day of rest involves any extra strain as alleged by the Union or any inconvenience to the workmen and that the workmen on that ground or any other ground are entitled to any compensation.

36. In Para 20 of its written statement, the Bombay Port Trust has stated that the demand of the Union has been rejected by the Port Administration on the ground of its being impracticable and unreasonable and not on the ground of financial incapacity to meet the demand. It has stated that the submissions made by the Union that the employers attach a special significance to Sunday and charge the Shipping Companies at higher rate for work done by the Port Trust on Sundays is a mere repetition of the argument urged before Shri Meher and completely rejected and disposed off by the Labour Appellate Tribunal.

37. With reference to the Union's submissions made in Para 37 of its written statement that the granting of "alternative", "substituted" or "compensatory off" is no appropriate concession for the loss of convenience and amenities on Sundays and that the fixation of a weekly rest day cannot outweigh the draw-backs and deficiencies of Sunday not being the day of rest, the Bombay Port Trust has denied the same. It has also denied the submission contained in Para 38 of the Union's statement that the system of staggering of the weekly day of rest is either unjust, improper, illegal or unfair or inequitable. It has in that connection relied upon an earlier Award dated 16th Oct., 1961 and published in the Gazette of India on 4th November, 1961 in Reference No. CGIT 24 of 1960, made by this Tribunal, in which, on an interpretation of the provisions of the Minimum Wages Act and the rules made therein it was observed that workmen "would be entitled to extra payment only if he were made to work on his notified weekly day of rest". The Bombay Port Trust has denied that the demand of the Union is reasonable or valid.

38. With regard to the alternative demand that the weekly day of rest should be fixed in advance for a period of two years at least, the Bombay Port Trust has stated in Para 24 of its written statement that the observations made in Para 41 of the Union's written statement on this statement are not only untenable but frivolous as well. In this connection, the Bombay Port Trust has pointed out that in 1956 the Union had served the Bombay Port Trust with a list of demands and threatened it with a strike in default of compliance thereof, and that by demand No. 9 therein the Union had demanded that "wherever the

staggering system of weekly off is introduced, weekly day of all workmen should be fixed for a period of one year." The Bombay Port Trust has explained that this demand was subsequently dropped by the Union on the employers undertaking to fix off days in advance for three months at a time; that this settlement was recorded in the Bombay Port Trust's letter dated 14th September, 1957, addressed to the General Secretary of the Union in which, as regards the demand No. 9 it was stated "that the demand had been dropped by the Union on our undertaking to fix weekly off days in advance for three months at a time". The Bombay Port Trust has annexed, as Annexure IV, a copy of the said letter. The Bombay Port Trust in the remaining paragraphs 25 to 28 has denied the allegations and submissions contained in Para 42 onwards in the Union's written statement. It has submitted that the rights and obligations created by Shri Meher's Award continued to be binding on the parties and that there has been no change in circumstances since the date of Shri Meher's Award which has any bearing on the nature of the present demand. In particular it has submitted that the demand under para 55 of the Union's statement of claim, claiming interest and overtime wages at double the ordinary rate of wages with interest on such amounts from 1951 at 6 per cent till the date when the staggered system is altered falls outside the terms of the reference and the Bombay Port Trust has been advised not to plead to the same.

39. I shall first deal with the preliminary objection urged by Shri Nariman which is that the same demands were adjudicated upon by Shri Meher in his award in Reference No. ITCG 3 of 1954 dated 3rd September 1954 and that there had since then been no change in the circumstances on which that award was based. In other words, the preliminary objection is that the demand under reference is barred by the application of the principles analogous to the principle of *res judicata*. The two demands referred to Shri Meher were:—

- (1) Whether the changes introduced by the Port Trust in regard to the new shifts working-hours, timings of shifts, weekly off days, working hours on Saturdays and rest intervals, are fair and reasonable: if not, in what respects modifications are necessary, and what relief should be granted to the workmen, and from what date?
- (2) Whether the workmen should be paid compensation for the loss of overtime payments which they have been receiving in the past."

40. Shri Meher in his award in rejecting the demand held that it was open to the employers to stagger the weekly days of rest and workers were not entitled to a fixed day of rest on Sundays but awarded that for work on Sundays the workmen should be paid wages at 1½ times their ordinary rate of payment. This latter direction was set aside by the decision of the Labour Appellate Tribunal in Appeals (Bom.) Nos. 255 and 256 of 1954 dated 3rd May, 1956. In support of his contention Shri Nariman has mainly relied upon the Supreme Court's decision in the case of *Burn & Co., Ltd., versus their employees* (1957 1 LLJ p. 226) where their Lordships observed as follows:—

"No doubt the Industrial Disputes Act does not contain any provisions under which an award could be reopened. But it could not be contended that an award given on a matter in controversy between the parties after full hearing, ceases to have any force if either of them terminates it under section 19(6) of the Industrial Disputes Act and that the Tribunal has no option when the matter is again referred to it for adjudication but to proceed to try it *de novo*, traverse the entire ground once again and come to a fresh decision. That could be contrary to the well established principles that a decision once rendered by a competent authority on a matter in issue—between the parties after a full enquiry should not be permitted to be re-agitated. It is on this principle that the rule of *res judicata* enacted in section 11 of the Civil Procedure Code is based. That section is no doubt in terms inapplicable to the decisions of Industrial Tribunals but the principles underlying it, expressed in the maxim interest *rei publicae ut sit finis litium* is founded on sound policy and is of universal application. Now, there are good reasons why this principle should be applicable to decisions of industrial tribunals also. Legislation regulating the relation between capital and labour has two objects in view. It seeks to ensure to the workmen who have not the capacity to deal with capital on equal terms, fair returns for their labour. It also seeks to prevent disputes between employers and employees, so that production might not be adversely affected and larger interests of the society might not suffer. Now, if it is to be held that an adjudication loses its force when it is terminated under section 19(6) of the

Industrial Disputes Act and that the whole controversy is at large, then the result would be that far from reconciling themselves to the award and settling down to work it, either party will treat it as a mere stage in the prosecution of a prolonged struggle and far from bringing industrial peace, the awards would turn out to be but truces giving the parties breathing time before resuming hostile action with renewed vigour. On the other hand, if the awards are regarded as intended to have long term operation and at the same time liable to be modified by change in the circumstances on which they are based, both the purposes of legislature would be served."

41. Shri Nariman has argued that though the award of Shri Meher in Reference No. ITCG No. 3 of 1954 had been validly terminated it continued to govern the relationship of the parties in all matters covered by it and he has in support relied upon the judgment of the Division Bench of the Bombay High Court (Justice Shah and Justice Gokhale) in the case of Mangaldas Narayandas v/s the Payment of Wages Authority, Ahmedabad and others (1957 II LLJ p. 256).

42. Shri Nariman's contention based on the decision of the Supreme Court in Burns & Co.'s case is that the demand in an earlier award cannot be re-agitated unless change of circumstances is established on which the earlier award was based. He has argued that the only change of circumstance alleged by the Union is in paragraph 48 of its written statement where it had stated:—

"The union further stated that in the Bombay Port Trust and elsewhere substantial changes have taken place in the conditions of work, recreational facilities available to labour and a general rise in the cost of living. The union submits that these changes warrant the giving of reliefs to the employees whatever be the position about the validity, effect and extent of the continuance of operation of the award in Reference ITCG-3 of 1954."

43. Shri Nariman has argued that the award of Shri Meher was not based on any of the conditions referred to by the union viz., conditions of work, recreational facilities and general rise in the cost of living. He has further argued that the award of Shri Meher not having been based on these circumstances the change in these circumstances would not entitle the Union to raise a fresh industrial dispute on the same demand. He has referred to my award in an earlier industrial dispute between the Bombay Port Trust and its workmen in Reference CGIT-24 of 1960. But that industrial dispute as fairly conceded by Shri Nariman was a dispute raised by another union and not the present union and it was therefore in a sense not a dispute between the same parties. He has further argued that because the reliefs claimed by the Union in paras 38 to 41 of its written statement and particularly paragraph 41 have not been claimed in the earlier dispute before Shri Meher that could not bar the application of *res judicata*. He has further urged that the mere fact that the Union now asks for an additional relief which was not claimed in the earlier dispute could not change the real nature of the dispute and the test really is whether the later dispute is or is not the same as the earlier dispute.

44. Shri Tembe, the learned Advocate for the Union, has argued with some justification that the principles of *res judicata* cannot be applied with as much rigour to industrial disputes as to civil matters. He has in this connection relied upon the judgment in the case of Walford Transport Limited *versus* the First Industrial Tribunal West Bengal and others where the test applied was in these words:—

"The same question having been decided not long ago, and there having been no change of circumstances to show that there should be different considerations the Award in question must be held barred by the principle of *res judicata*."

What Shri Tembe was seeking to argue was that it was only when the previous award was made a short time ago and no change in circumstance was alleged and proved that the principle of *res judicata* could be applied. He has urged that in this case the lapse of time since the award was made by Shri Meher and the time when the instant dispute was raised has been considerable and that would justify this dispute being adjudicated upon and not being treated as barred by *res judicata*. That there has been a considerable lapse of time since Shri Meher's Award was made is true. Shri Meher's Award is dated 3rd September, 1954 and was published in the Gazette of India, dated 2nd October, 1954, which was terminated by the requisite two months notice under the Industrial Disputes Act on 8th June, 1962, and in the instant dispute the joint application

for reference to adjudication under section 10(2) was filed on 21st December, 1963 and the reference was made on 29th May, 1964. There has thus been a lapse of over 10 years since Shri Meher made his award, and the award was terminated after it was given a trial for 8 years. Thereafter about a year and a half lapsed during which there was correspondence between the Bombay Port Trust and the Union and constant agitation was carried on by the workmen for a change in the existing system of staggering weekly days of rest till a joint application was made on 21st December, 1962.

45. I agree with Shri Tembe's contention that since the award of Shri Meher was made changes have taken place both in law and in fact which should be taken into account in applying the principles analogous to the principle of *res judicata*. As stated by me in my preliminary order, dated 31st May, 1966, change of circumstance is a term of wide connotation and would include change by operation of law as also change in the very concept of the subject matter over which the industrial dispute was first raised. The law relating to adjudication of industrial disputes in India is a developing and progressive law and many a concept has undergone a radical change during the last ten years. Legislative changes have taken place relating to the provisions of weekly days of rest since Shri Meher made his award and this is clearly established by the amendment made on 29th July, 1960 to Rule 23 of the Minimum Wages (Central) Rules, 1950 which now speaks of a weekly day of rest which shall ordinarily be Sunday.

46. The concept of weekly day of rest has undergone a change by the decisions of Courts and Tribunals. In my opinion the fact that the Union has in para 41 of its statement made an alternative claim for relief for fixing the weekly day of rest in advance for two years at least, would be a change in circumstance, apart from the fact whether such a scheme is on the merits justified or not. This demand according to the Union arises out of new circumstances which have arisen as a result of the staggering weekly days of rest which have come to be prescribed. I agree with Shri Nariman that mere lapse of time would not invalidate the principle on which an earlier award is based. But what constitutes a change of circumstance is not a rigid rule and when so long as a period of a decade has passed during which *prima facie* there has been a change in the rules under the law i.e. the Minimum Wages Act Rule 23 relating to weekly days of rest and where a change of circumstance is alleged arising out of the very system of staggering weekly days of rest which are in force, it would not be proper to rule out the dispute as being barred by *res judicata*. If I were to do so then it would amount to denying the Union a chance of arguing its case on the alternative demand made in para 41 of its written statement of claim which is based on change of circumstances which it claims have occurred since Shri Meher has made his award. Therefore, if I were to hold that the whole reference is barred by principle analogous to the principle of *res judicata* it would debar me from enquiring into whether a change of circumstance has occurred to justify the said alternative demand.

47. For these reasons I am averse to disposing of this reference on the preliminary legal objection of the demands being barred under principles analogous to the principle of *res judicata*. For these reasons I reject the preliminary objection urged by Shri Nariman and proceed to deal with the dispute on its merits.

48. Shri Tembe, the learned advocate for the Union has argued that Rule 23 of the Minimum Wages (Central) Rules is *ultra-vires* of the provisions of Section 13 of the Minimum Wages Act, 1948, (Act XI of 1948). Now, section 13 of the Minimum Wages Act, which provides for fixing hours for a normal working day etc., is as follows:—

13. (1) In regard to any scheduled employment minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may—

- (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals.
- (b) provide for a day of rest in every period of seven days which shall be allowed to all employees or to any specified class of employees and for the payment of remuneration in respect of such days of rest;
- (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.

(2) The provisions of sub-section (1) shall, in relation to the following classes of employees, apply only to such extent and subject to such conditions as may be prescribed:—

- (a) employees engaged on urgent work or in any emergency which could not have been foreseen or prevented;

- (b) employees engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working in the employment concerned;
- (c) employees whose employment is essentially intermittent;
- (d) employees engaged in any work which for technical reasons has to be completed before the duty is over;
- (e) employees engaged in a work which could not be carried on except at times dependent on the irregular action of natural forces.

49. At the outset it may be stated that it is conceded that employment by the B.P.T. is scheduled employment under the provisions of Sub-section 1 of Section 13.

50. Now, old Rule 23 of the Minimum Wages (Central) Rules 1950, prior to its substitution by G.S.R. 918 dated 29th July, 1960 was as follows:—

Weekly holidays.—(1) Unless otherwise permitted by the Central Government no worker shall be required or allowed to work in a scheduled employment, on the first day of the week (hereinafter referred to as the said day) except when he has or will have a holiday for the whole day on one of the five days immediately before or after the said day for which he shall receive payment equal to his average daily wages during the preceding week:

Provided that the weekly holidays may be substituted by another day:

Provided further that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Where in accordance with provision of sub-rule (1) any worker works on the said day and has had a holiday on one of the five days immediately preceding it, the said day shall for the purposes of calculating his weekly hours of work, be included in the preceding week.

Explanation.—For the purposes of this rule 'week' shall mean a period of seven days beginning at midnight on Saturday night.

51. It is also necessary to reproduce Rule 23 of the Minimum Wages (Central) Rules 1950 as substituted by G.S.R. 1918 dated 29th July, 1960. Rule 23(1) is as follows:—

Rule 23(1) Weekly day of rest.—(1) Subject to the provisions of this rule, an employee in a scheduled employment in respect of which minimum rates of wages have been fixed under the Act, shall be allowed a day of rest every week (hereinafter referred to as 'the rest day') which shall ordinarily be Sunday, but the employer may fix any other day of the week as the rest day for any employee or class of employees in that scheduled employment:

Provided that the employee has worked in the scheduled employment under the same employer for a continuous period of not less than six days:

Provided further that the employee shall be informed of the day fixed as the rest day and of any subsequent change in the rest day before the change is effected, by display of a notice to that effect in the place of employment at the place specified by the Inspector in this behalf.

Explanation.—For the purpose of computation of the continuous period of not less than six days specified in the first proviso to this sub-rule—

- (a) any day on which an employee is required to attend for work but is given only an allowance for attendance and is not provided with work, and
- (b) any day on which an employee is laid-off on payment of compensation under the Industrial Disputes Act, 1947, shall be deemed to be days on which the employee has worked.

(2) Any such employee shall not be required or allowed to work in a scheduled employment on the rest day unless he has or will have a substituted rest day for a whole day on one of the five days immediately before or after the rest day:

Provided that no substitution shall be made which will result in the employee working for more than ten days consecutively without a rest day for a whole day.

(3) Where in accordance with the foregoing provisions of this rule, any employee works on a rest day and has been given a substituted rest day on any one of the five days before or after the rest day, the rest day shall, for the purpose of calculating the total hours of work, be included in the week in which the substituted rest day occurs.

(4) An employee shall be granted for the rest day wages calculated at the rate applicable to the next working day and in case he works on the rest day and has been given a substituted rest day, he shall be paid wages for the rest day on which he worked, at the overtime rate and wages for the substituted rest day at the rate applicable to the next preceding day:

Provided that where the minimum daily rate of wages of the employee as notified under the Act has been worked out by dividing the minimum monthly rate of wages by twenty-six, or where the actual daily rate of wages of the employee has been worked out by dividing the monthly rate of wages by twenty-six and such actual daily rate of wages is not less than the notified minimum daily rate of wages of the employee, no wages for the rest day shall be payable, and in case the employee works on the rest day and has been given a substituted rest day, he shall be paid only for the rest day on which he worked, an amount equal to the wages payable to him at the overtime rate; and if any dispute arises whether the daily rate of wages has been worked out as aforesaid, the Chief Labour Commissioner may, on application made to him in this behalf, decide the same, after giving an opportunity to the parties concerned to make written representations:

Provided further that in the case of an employee governed by a piece-rate scheme, the wages for the rest day, or as the case may be, the rest day and the substituted rest day, shall be such as the Central Government may, by notification in the Gazette of India, prescribe, having regard to the minimum rate of wages fixed under the Act in respect of the scheduled employment.

Explanation.—In this sub-rule, 'next preceding day' mean the last day on which the employee has worked, which precedes the rest day or the substituted rest day, as the case may be; and where the substituted rest day falls on a day immediately after the rest day, the next preceding day means the last day on which the employee has worked, which precedes the rest day.

(5) The provisions of this rule shall apply to the employees in scheduled employments other than agricultural employment.

(6) The provisions of this rule shall not operate to the prejudice of more favourable terms, if any, to which an employee may be entitled under any other law or under the terms of any award, agreement or contract of service, and in such a case, the employee shall be entitled only to the more favourable terms aforesaid.

Explanation.—For the purposes of this rule, 'week' shall mean a period of seven days beginning at midnight on Saturday night.

52. Now, the Bombay Port Trust's notice fixing the weekly day of rest in the Engineering Department after the provisions of the Minimum Wages Act were made applicable, is dated 18th November 1953 and it is Ex. B to the Union's written statement of claim. That Notice is as follows:—

"Chief Engineer's Office,
Ballard Road, Fort,
Bombay-1.

Dated 18th November 1953

NOTICE

Minimum Wages Act.

"All scheduled and non-scheduled staff governed by the above Act, are hereby informed that as required under Rule 23 of the Minimum Wages (Central) Rules, 1950, weekly holiday on 'average daily wages' will be given to them with effect from Sunday 6th December, 1953 or so soon thereafter as may be possible. The weekly holiday shall be Sunday except in the case of such of the staff as shall be called to work on that day, who will then be entitled to a substituted weekly off which will be intimated, to them".

"The staff are also informed that they will be given a substituted weekly off as stated above, and will not be classed for duty on Sundays against until after that other members of the staff have had their turn in strict rotation".

53. Now, Shri Tembe, the learned Advocate for the Union has relied upon the provision in Section 13 which speaks of "all employees or any specified class of employees" and he has argued that Rule 23 is *ultra-vires* because it does not provide for the specified class of employees. He has, therefore urged that the Bombay Port Trust's notice dated 18th November, 1953 is also *ultra-vires* because it does not mention the specified class of employees in the Engineering Department to whom it would be applicable. He has argued that it is not any worker that can be lifted from the entire compliment of workmen but the rule applies only to workmen in specified class of employees. He has further argued that the employers had not been given the option to determine the specified class of employees which must be specified by Government and for that purpose he has relied upon the provisions of Section 30 of the Act, which provides for powers in the appropriate Government to make rules to carry out the purpose of the Act, and he has argued that the Bombay Port Trust has usurped the powers of the Government. His contention has been that Rule 23 is *ultra-vires* because of the absence of provisions in the rules for the purpose of fixing a specified class of employees as provided in Section 13 of the Act.

54. In my opinion, Rule 23 is not *ultra-vires* of Section 13. The Rule is in the widest terms in favour of Labour giving benefit to workmen in a scheduled employment, and it is admitted that employment in the Bombay Port Trust is scheduled employment under Section 13 of the Act. The words "no workers shall be required to or allowed to work in a scheduled employment" in old rule 23 includes all workmen in the scheduled employment who will be given a weekly day of rest. The Act does not mention Sunday or any other day of the week as having to be the weekly day of rest; it only says that a weekly day of rest shall be provided. Under Section 13 of the Government could have restricted the benefit of the Rule to a particular class, but Government has not restricted its application. It has granted the benefit of Section 13 to every workmen in that establishment. The Rule 23, as pointed out by the Labour Appellate Tribunal in para 7 of its decisions dated 3rd May 1956 in appeals (Bom.) No. 255 and 256 of 1956 against Shri Meher's Award in I.T.C.G. No. 3 of 1954, contemplates that a workman in scheduled employment may be required to work on a Sunday provided he has a day of rest within 5 days immediately before or after the said day. It is significant that in the old Rule 23 there were no requirements that the substitution of the weekly day of rest would be made only after giving notice in that behalf to the workmen concerned. When the rule itself says that if a workman is asked to work on a Sunday, he shall be given a rest day, 5 days before or after that date. It, in effect, provides or permits the staggering of the weekly day of rest. Under the Minimum Wages Act and its rules an employer has a right to rest his workmen on a Sunday or any other day of the week. With regard to the Bombay Port Trust's notice dated 18th November 1953, the notice is not a statutory notice inasmuch as it was not required to be given under the rules of the Minimum Wages Act. I agree with Shri Nariman's contention that the notice was for general information to the workmen giving them information about the position in law regarding the weekly off. The notice was not a Roaster. In fact, at that time there were no Roasters. That was not a notice which was affecting any substitution. It only told the workmen of what were the requirements of Rule 23 and it was, therefore, not necessary to have specified any class of employees to whom it was applicable.

55. Now, with regard to the Union's contention that the substituted Rule 23 refers to the weekly rest day ordinarily being a Sunday it must be remembered that the actual words are "which shall ordinarily be a Sunday." This does not take away the right of the employer to fix any other day of the week as the weekly day of rest. As rightly contended by Shri Nariman, the learned Solicitor for the Bombay Port Trust it did not give any sanctity to Sunday. It is significant that section 13 does not refer to Sunday at all. It only says that Government may fix a weekly day of rest. Under the rule, the employer may fix any day of the week as the rest day for an employee or class of employees in that scheduled employment. In my opinion staggering as practised by the Bombay Port Trust is provided for and is permitted by Sub-rule 1 of Rule 23 and that the staggering of the weekly day of rest under both Roasters of the Bombay Port Trust constitute proper substitution of the weekly day of rest as contemplated by the Minimum Wages Act and its Rules. The question of the grant of a substituted day of rest will not arise unless a workman has been made to work on his day of rest. In my opinion, under Rule 23 staggering as done by both the roasters of the Bombay Port Trust is permitted because the rest day would be any day of

the week. The rule also provides for a substituted day of rest if the workman has been made to work on his day of rest provided the substituted holiday is within 5 days before or after. Under Rule 23 if you have made a workman work on his rest day he shall under Sub-rule 4 be paid for working on the rest day at overtime rates and for the substituted rest day at rates applicable to the next preceding day. It is significant that the old rule contained no provision for extra payment for work on the weekly day of rest. Under the new rules also extra payment would be for working on the weekly day of rest and not on Sunday as such.

56. The Supreme Court in an earlier case of the workmen of the Bombay Port Trust and Trustees of the Port of Bombay (1961 ILLJ page 632) has held that the old Rule 23 was not *ultra-vires*. Even under the amended rule 23, the extra payment would be for working on the weekly day of rest, and not on Sunday as such. As pointed out by the Labour Appellate Tribunal in para 8 of its said decision dated 3rd May 1956 in Appeals BOM No. 255 and 256 of 1954, "It is obvious that the moment the system of staggering of weekly day of rest is recognised, Sunday loses its special significance and any special payment for work done on Sunday as such creates a discrimination in favour of those workmen who were given extra allowance for working on Sunday, although that day is not their weekly day of rest". It was on this reasoning that the Labour Appellate Tribunal set aside the extra payment for working on Sunday, which Shri Meher had awarded in his award in Reference No. 3 of 1953.

57. For the reasons stated above, I am of the opinion that there is no substance in the said legal contention urged by Shri Tembe, and, I hold that Rule 23 of the Minimum Wages (Central) Rules, 1950 is not *ultra-vires* of Section 13 of the Minimum Wages Act, and that the Company's notice dated 18th November 1953 is not illegal or invalid.

58. Both parties have led oral evidence in this case. The procedure adopted by consent was that both parties filed the affidavits of their witnesses, copies of which were furnished to the other side, and the witnesses were then tendered for cross-examination.

59. The Union has thus examined 10 witnesses (WW-1 to WW-10) and the Bombay Port Trust has examined 3 witnesses (EW-1 to EW-3).

60. The affidavit of the workmen witnesses have followed a set pattern and the affidavit of Haroon Jaffer Khan (WW-1) dated 19th August 1966 (Ex. W-1) can well be treated as an example. After giving the date of his employment which was in 1942, and his present position as Electrical Wharf Crane Driver, he has stated that till the implementation of the Minimum Wages Act in December 1953, Sunday had been the uniform day of weekly rest in the Hydraulic Establishment, Alexandra Dock, in which he had joined service on 13th January, 1952 and where he had been in continuous employment since then. He has further stated that whenever the employers wanted work to be done on a Sunday, the workmen were asked on the previous day in turn as to whether they were ready and willing to work on the Sunday. The number of workmen required on such a Sunday was also mentioned. Only those who expressed their willingness to work on Sunday worked on the said day. He has stated that every workman who thus worked on Sunday was paid wages at a rate higher than the usual rate of working and that he had worked on Sundays at his option whenever it was convenient for him to do so. This may be said to form the first part of the affidavits of the workmen. In the second part all of them have stated that working on Sunday disturbs completely their family life; that they cannot enjoy the company of their wives and their children and that they are deprived of the company of their friends by having to work on a Sunday. Some of them have stated that they cannot participate in social activities and functions—particularly of their community—since such meetings are generally held on Sundays.

61. The case that the Union wanted to establish by this oral evidence was that prior to the implementation of the Minimum Wages Act in December, 1953, Sunday was the uniform weekly day of rest of the workmen in the Engineering Department and other establishments of the Bombay Port Trust; that it was not obligatory for the workmen to work on Sundays and that those who expressed their willingness to work on Sundays were asked to work on that day. In words, that it was the option of the workmen whether to work on Sunday or not and thirdly that every workman who worked on Sunday was paid at the rate of $1\frac{1}{2}$ times the normal rate of wages. Now, it is admitted that for work on Sundays prior to December 1953 the workmen were paid at $1\frac{1}{2}$ their normal rates of pay and were not granted a substituted off day and that since the introduction of the Minimum Wages Act, the workmen called to work on their weekly day of rest are paid their normal

wages, but are granted a substituted day off. I do not think it necessary to deal with the evidence of each of the 10 witnesses who has been examined by the Union. Most of them spoke from memory unsupported by any office-orders or practices which pertained more than a decade ago and their evidence as in the case of WW-7, Shri Charan Rameshwar Lohar, Fitter, was proved to be unreliable on material points. This witness stated that since the implementation of the provisions of the Minimum Wages Act in 1953, he had to work on Sundays, and he went on to say that though he had not worked on many Sundays in a month, he had to work on Sundays occasionally ever since 1953 to 1966. He volunteered that he had in 1966 upto 27th August 1966 worked for 12 Sundays, but in cross-examination had to admit that since 1953 till 1966 he had worked continuously in the day shift only, and that those who were in the fixed day duty in the Loco-shed are not required to work on Sundays. He had to admit that what he had stated earlier that he had worked for 12 Sundays during March to June 1966, was false. He had further to admit in cross-examination that when he gave instructions to the Union to prepare his affidavit he was aware that he had not worked even on a single Sunday, between 1953 and February 1966, and that the statement in Paras 5 and 7 in his affidavit were general statements which did not apply to this case. Other workers witnesses have also similarly made statements which were proved to be incorrect. Their evidence therefore cannot be considered reliable. This has been the result of statements having been made in affidavits in set form and the same terms and workmen having come prepared to adhere to a set story about conditions of service which pertained over a decade earlier, which depositions have in cross-examination been proved to be incorrect and unreliable.

62. On the other hand, evidence of the 3 witnesses of the Bombay Port Trust who are all senior and responsible officers of the Bombay Port Trust have given a true picture of the conditions regarding Sunday work that were prevailing prior to 1953 and of the conditions which have prevailed since the provisions of the Minimum Wages Act and the Rules framed thereunder came to be implemented in December 1953. Their evidence has been supported by documents annexed to their affidavits and they have also spoken from records. On certain points, I shall refer to the evidence of witnesses at a later stage. I am, however, completely satisfied that the version of the Union that prior to the implementation of the provisions of the Minimum Wages Act, and its rules by the Bombay Port Trust in December, 1953, Sunday was the uniform weekly day of rest, has not been established. Nor has the Union established that it was optional for the workmen to work on Sundays or not to work as they wished. I am satisfied that even prior to 1953, if a workmen did not work on a Sunday when required to do so, it was considered a misconduct. On careful consideration of the evidence I am satisfied that the real position prior to December 1953, with regard to Sunday working was that the workmen were only too anxious to work on Sundays because of the enhanced rate of pay which they stood to get for working on Sundays and that the story of the Union that they were forced to work on Sundays under threat of their being punished if they did not, is not a correct one. I accept Shri Nariman's submission that in those days to be called to work on a Sunday was to have been shown a favour and there were more workmen who were prepared to offer themselves for work on Sundays than the Port Trust required. This is borne out by the fact that later an industrial dispute was raised on a demand for the workmen being computed for loss of overtime wages because of the workmen being deprived of work on Sundays on implementation of the provisions of the Minimum Wages Act, which formed demand No. 2 in Reference No. 3 of 1954, adjudicated upon by Shri Meher who rejected the demand and which award was upheld by the Labour Appellate Tribunal by its decision dated 3rd May, 1956 in Appeals No. 255 and 256 of 1956, as stated earlier.

63. With regard to the second part of the workmen's evidence that being made to work on Sundays they suffer social inconvenience, the evidence of the workmen on the point is most unsatisfactory and unconvincing. The story that several members had to resign their membership of their community's organisation because of their having to work on Sundays after the system of rotation of weekly off days was established, is too frivolous to be accepted. In fact under one of the existing roster system the workmen stand to get some Sundays as their weekly day of rest by rotation, but the workmen's witnesses in their evidence showed a preference for a system under which they would get a fixed weekly day of rest throughout, which may not be a Sunday than the system under which they would occasionally get Sunday as the weekly day of rest. I am afraid, the real fact of the matter is that these workmen want Sunday as the uniform weekly day of rest because of the overtime wages they would then get for working on that day, in addition to the substituted off day. In sections of the Engineering

Department of the Bombay Port Trust in which the staggering of the weekly day of rest is practiced Sunday working is essential and it is not possible to grant the workmen's demand for Sunday being the uniform weekly day of rest on the plea of the social inconvenience which they say they have to suffer.

64. I am satisfied that even prior to December, 1963 when the Minimum Wages Act was implemented Sunday was being observed as the weekly day of rest in sections and departments of the Bombay Port Trust where it was administratively feasible to grant the same and that there were certain sections and departments of the Bombay Port Trust where it was not administratively possible to grant Sunday as the uniform weekly day of rest. That position enures even today. On this point, I accept the evidence of the witnesses of the Bombay Port Trust who have given detailed particulars of the sections of the Engineering Department, where because of administrative difficulties it is not possible to observe Sunday as the uniform weekly day of rest and where staggering of the weekly days of rest is necessary.

65. I am satisfied that if Sunday is to be made the uniform weekly day of rest in all sections of the Engineering Department, it would result in the Port work being disorganised and I agree with Shri Meher's observation that if Sunday were to be observed as the uniform weekly day of rest the Ports activities would come to a stand still on that day which cannot be permitted.

66. I am satisfied that wherever it is administratively possible, the Bombay Port Trust does give Sunday as the uniform weekly day of rest. The Bombay Port Trust's case both before Shri Meher in the earlier reference 3 of 1954, as also before this Tribunal has been that prior to the provisions of the Minimum Wages Act, in certain sections there was no working on Sundays and in certain others there was working on Sundays. In sections in which prior to the implementation of the Minimum Wages Act, there was no Sunday working, even today, after implementation of the Minimum Wages Act, there is no Sunday working. Employees are now working on Sundays only in those sections in which they were working on Sundays prior to the Minimum Wages Act and that in certain sections like Butcher Island Sunday working came into operation because of exigencies of work after the Minimum Wages Act was implemented.

67. The greatest reliance has been placed by the Union on the working in the Mobile Crane Section. In that section, there are about 250 workmen (out of a compliment of about 800) who are made to work on Sundays for which they are paid twice their rates of wages and are given a substitute day of rest. It has been argued by the Union that if this can be done in such a big section of the Engineering Department of the Bombay Port Trust there could not be any administrative difficulty in making Sunday the uniform weekly day of rest in all the sections in the Engineering Department. It has been argued that out of about 10,000 workmen who would be covered by this reference about 75 per cent are enjoying the benefit of Sunday as the fixed weekly day of rest and the demand involved only the remaining 25 per cent numbering about 2,500. Shri Tembe, the learned Advocate for the Union, has relied on Sunday being observed as the uniform weekly day of rest in Scindia Steam Ship Company and Mazagaon Docks. But the comparison with Scindia Steam Ship Company and the Mazagaon Docks was considered and rejected by Shri Meher in his Award in Reference 3 of 1954. Besides, no evidence has been led by the Union as to what has happened during the last 13 years and what is the present position in regard to Sunday working in Scindia Steamship Company and Mazagaon Docks. The more relevant point, in my opinion, is that it is admitted that in no port in India is Sunday being observed as a uniform weekly day of rest. I am satisfied that that is so because administratively it is not possible to give Sunday as the uniform weekly day of rest. Shri Tembe, the learned Advocate for the Union has argued that Sunday was being observed as a uniform weekly day of rest in countries in the West, like U.K. and U.S.A. But conditions there are different, those being Christian countries where Sunday is the Sabbath, and there is no information of the conditions on which Sunday is observed as a uniform weekly day of rest. It would be more appropriate, in my opinion to consider the prevailing conditions in all the Ports in India in none of which is Sunday observed as a uniform weekly day of rest than draw comparison with the practices prevailing in foreign countries.

68. Referring to the Mobile Crane Section, there were special circumstances under which a special treatment had to be given to that Section and Shri Meher before whom the same arguments were urged on this point as have been urged before me in his Award had dealt with this point at page 3 which contains a

reference to the agreement of 17th November, 1963, which was relevant to the point.

69. It is necessary to deal with the two types of rosters existing in the Bombay Port Trust at present. Both rosters are prepared and displayed in advance for the information of the workmen concerned. Under one roster a particular day of the week say a Wednesday is the uniform weekly day of rest for the particular workmen throughout the period of the Quarter and the second is a one in which the weekly off day for the particular workmen varies from week to week. Copies of such rosters have been filed. The workmen witnesses were questioned on this point and their general preference was for the second type of muster. But all of them stated that they prefer Sunday as the uniform weekly day of rest. It may be observed that change in the weekly day of rest has been brought about because the provisions of the Minimum Wages Act, do not permit working on all the 7 days in the week. Even prior to the Minimum Wages Act, there were certain sections in the Bombay Port Trust which were governed by the Factory's Act, which also compelled the employer to give the workmen one day off in the week and witness Taufiq (EW-3) has in his affidavit (para 5 last 4 lines) referred to the cases of workmen who even prior to the Minimum Wages Act were governed by the Factory's Act and had to be given a day off in the week. In these cases, the Bombay Port Trust did exactly what it is doing now viz. it did not give the workmen who worked on Sunday any additional pay, it only gave them a compensatory day off. I am satisfied that under both the Roasters the staggering of the weekly day of rest is in the fact substitution of the weekly day of rest as contemplated by the Minimum Wages Act and its Rules.

70. It was argued by Shri Tembe the learned Advocate for the Union that for ensuring all workmen Sunday as the uniform weekly day of rest, the Bombay Port Trust must where necessary engage more workmen. He has argued that difficulties offered in preparation of roster are due to the employment of lesser number than is necessary and that the practical difficulties urged are a creation of the Bombay Port Trust. I am not satisfied that there is any justification in this allegation. The difficulty of preparing the type of roster which the Union wants has proved insurmountable. In fact, it is on record that this Union's prior Assistant Secretary was made an offer to prepare such a Roster, but the offer was not accepted. Shri Tembe has referred to a statement by witness Taufiq that difficulty could be solved by employing more men but the witness added that there is a limit beyond which more men cannot be employed. I do not think that that was an irrelevant answer or one with which the Union can justifiably quarrel. After all is said and done, it is the administrative function of the Port Trust as to how many workmen should be employed and the Union cannot claim that a larger number of workmen should be employed in order that Sunday may become the uniform weekly day of rest in the industry where I am more than satisfied Sunday working in the sections in which at present it is obtaining is essential to its proper functioning.

71. After an anxious consideration of the oral and comentary evidence on record and the submissions made by the parties I am satisfied that it is not possible to have a fixed system of weekly day of rest and to provide Sunday as the fixed day of weekly rest in all sections of the Engineering Department as demanded by the union.

72. The union in paragraph 41 of its statement of claim has made an alternative submission that if I came to this conclusion that Sunday could not be the uniform weekly day of rest, then the weekly day of rest should be fixed in advance for a period of two years at least and that this day should be the same for a particular workman throught the period, and even in respect of this compensation in the form of higher rate as claimed should be awarded.

73. The Bombay Port Trust in para 24 of its written statement has stated that this alternative demand made by the Union is not only untenable but also frivolous. It has pointed out that in the year 1956 the Union had served employers with a list of demands threatening a strike in default of compliance thereof. One of these demands, demand No. 9, was as under:—

"Weekly off—Wherever the staggering system of weekly off is introduced, weekly day off of workmen should be fixed for a period of one year."

It is admitted that this demand was subsequently dropped by the Union on the employers undertaking to fix weekly off days in advance for three months at a

time. The settlement *inter alia* of this demand has been recorded in the employer's letter dated 14th September, 1957 addressed to the General Secretary of the Union in which as regards the particular demand No. 9 it had been stated:

"This demand has been dropped by the union on our undertaking to fix weekly off days in advance for three months at a time."

The Bombay Port Trust has annexed a copy of that letter as Annexure-4 to its written statement. This clearly establishes that even then the Union had conceded the difficulties of preparing a roaster which would provide a fixed weekly day of rest for a period beyond 3 months.

74. I have heard the submissions of parties and I am more than satisfied that it would be impossible to fix the weekly day of rest in advance for a period of two years. There are innumerable difficulties in framing a roaster of that kind and from the evidence and submissions of the parties I think the Bombay Port Trust's contention that such a demand is not only, impracticable but frivolous would be justified. The fact that the union had dropped its earlier demand for a weekly day off rest for a year in advance militates against a claim for fixing the weekly day of rest in advance for two years.

75. In the overall result I had on issue (a) that fixing of the staggered weekly days of rest for the staff employed in the Engineering Department does not need any change and on issue (b) that having regard to the existing manner of granting the weekly days of rest and all the circumstances of the case the workmen are not entitled to claim that they have worked on their weekly days of rest and consequently that they are not entitled to be paid any extra wages or compensation whatsoever. Thus, the demands of the Union on both counts under reference fail and are rejected.

76. No order as to costs.

77. Before I part with this reference, I should like to express my appreciation of the able manner in which this industrial dispute was argued by both Shri S. Nariman, Solicitor and Shri R. K. Shetty, Deputy Legal Adviser for the Bombay Port Trust and Shri V. K. Tembe, Advocate for the Union.

(Sd.) SALIM M. MERCHANT,

Presiding Officer.

[No. 28/120/63-LRIV.]

S.O. 3270.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi in the industrial dispute between the employers in relation to Bombay Port Trust, Bombay and their workmen which was received by the Central Government on 1st September, 1967.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT BOMBAY**

REFERENCE C.G.I.T. No. 43 OF 1965

Employers in relation to the Bombay Port Trust

AND

Their Workmen

(represented by the Bombay Port Trust General Workers' Union)

PRESENT:

Shri Salim M. Merchant, *Presiding Officer*.

For the Bombay Port Trust:—Shri M. R. S. Captain, I.O.M. Solicitor, Legal Adviser with Shri R. K. Shetty, Deputy Legal Adviser.

For the Workmen:—Shri S. Moltra, General Secretary, the Bombay Port Trust General Workers' Union, Bombay.

Dated at Bombay this 29th day of August, 1967.

INDUSTRY: Major Port.

STATE: Maharashtra.

AWARD

On the joint application of the parties above-named the Central Government by the Ministry of Labour and Employments' Order No. 28/52/65/LRIV, dated 23rd

June, 1965, made in exercise of the powers conferred by sub-section (2) of Sec. 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947) was pleased to refer the industrial dispute between the parties above-named in respect of the subject matters specified in the following schedule to the said order to me for adjudication:—

SCHEDULE

"Whether the crews of the Docks Flotilla of the Trustees' Port Department are entitled to claim payment of calsson allowance at the same rate as that applicable to the crews of the Alexandra Dock shore establishment? If so, whether such payment should be made with any retrospective effect and if so, from what date?

2. Before dealing with the demand on its merits, it is necessary to deal with the preliminary legal objections urged in its written statement by the Bombay Port Trust (hereinafter for brevity's sake referred to as the B.P.T.), against the maintainability of this reference. The first legal objection urged is that this reference is bad in law and not maintainable because a Wage Board for the Port and Dock Workers at Major Ports, presided over by Shri L. P. Dave, is already seized of all matters involving the wage-structures of almost all categories of employees of the Major Ports. It is pointed out that the Wage Board was constituted by this Ministry's Resolution No. WB-21(4)/1964 dated 13-11-1964 (copy annexure 'A' to the written statement of the B.P.T.) which is prior in date to the joint application of the parties seeking reference of this dispute to adjudication under Sec. 10(2) of the Industrial Disputes Act, 1947, as also to the Government Order of reference herein. It is further pointed out that Para 3(b) of the said Government Resolution directed the Wage Board to work out a wage-structure based on the principles of 'fair-wages' as set forth in the Report of the Committee on 'Fair Wages' and that in constituting the wage-structure the Board should also take into account the need for uniformity in the rates and emoluments and benefits of employees doing the similar jobs at various major ports. The B.P.T. in its written statement has urged that as the reference to this Tribunal was made on 23-6-1965, after the Wage Board was constituted earlier on 13-11-1964, this reference was bad and to use the language of the B.P.T. "there cannot be two industrial authorities constituted for going into the same dispute simultaneously". The B.P.T. has also stated in support of this objection that the present reference was forced upon it. In respect of this plea, I may state that there was no evidence led by the B.P.T. to establish this allegation. This joint application was made voluntarily during conciliation proceedings and the plea of this reference having been forced upon it has not been substituted by the B.P.T.

3. With regard to the merits of the objection, I think there is no substance in it. The Port and Dock Workers' Wage Board is not constituted under the provisions of any statute. It was constituted like other Wage Boards, in pursuance of the recommendations made in Para 25 of Chapter XXVII of the Second Five Year Plan and in Para 20 of Chapter XV in the Third Five Year Plan. This Wage Board like other Wage Boards for other industries, which have preceded it, is a Tripartite body having representatives on it of the workmen, the industry and certain number of independent members, with an independent Chairman. The recommendations of the Wage Board are not binding on either the Employers or the Workmen and the Wage Board merely submits its recommendations to Government for its consideration. Shri Shetty has relied upon the observations of the Supreme Court in the Express Newspapers case. (1961 ILL J page 339). But that was a statutory Wage Board, constituted under section 8 of the Working Journalist (Conditions of Service and Miscellaneous Provisions) Act, different from the Wage Board for Port and Dock Workers which is constituted under recommendations of the Five Year Plans, whose recommendations have no binding legal character, or force which Awards of the Industrial Tribunals have, under the Industrial Disputes Act 1947. As is well-known, even during the pendency of Wage Boards the Central Government can and does refer industrial disputes on subject matters covered by the reference to the Wage Board to Industrial Tribunals for adjudication, as is proved by the various references relating to wages of Port and Dock Workers, which have been made to Industrial Tribunals under the Industrial Disputes Act, since the Wage Board was constituted. In my opinion, the fact that the Wage Board has been constituted to evolve a wage structure cannot, and does not make a reference to adjudication of a Tribunal of an industrial dispute regarding wages, particularly of the nature under reference bad. This would be all the more so, when the reference is made on a joint application under Sec. 10(2) of the Act. I, therefore, reject the first objection urged by the B.P.T. against the validity of this reference.

4. The second legal objection urged by the B.P.T. is that almost all the categories involved in this dispute were concerned recently in industrial disputes—Reference

I.T.C.G. Nos. 1 of 1963, 3 of 1963 and 1 of 1964—which were adjudicated upon by Shri M. R. Meher, I.C.S. (Retd.), who was constituted Central Government Industrial Tribunal, Bombay, for the purpose. It is urged that as under that Award an allowance of Rs. 2/- for miscellaneous work was fixed for the workmen under reference who were doing miscellaneous work, in addition to the caisson allowance of Rs. 2/- which all the members of the Dock Flotilla crew were getting, the present demand must be taken to have been rejected, by Shri Meher, and this reference cannot, therefore, be adjudicated upon again. I shall presently deal in some detail with this Award of Shri Meher. But at the outset, it is necessary to state that the subject matters referred to Shri Meher as stated in the Schedule to the relevant Government Order of Reference were (a) whether there are anomalies in regard to any of the pay scales recommended by the Tripartite Committee set up by the Resolution of the Central Government in the Ministry of Transport and Communications, Department of Transport No. 23-PLA (91) 158, dated the 23rd August, 1958, published in Part I of the Gazette of India, Extraordinary of the 25th August 1958 in respect of the categories of posts listed in the annexure; (b) if so, what modifications, if any, should be made in the scales of pay recommended by the said Committee for the posts listed in the annexure having regard to the directions contained in Paragraph 2 of the Resolution. It is admitted that according to the list of categories submitted by the B.P.T. General Workers' Union in respect of whom anomalies were alleged was item No. (5) Lascars 1st and 2nd Grade in Shore Flotilla Establishments.

5. The B.P.T. in support of this objection has contended that both before the C.C. Committee as well as before Shri Meher, both the Unions concerned, viz., the B.P.T. Employees' Union and the B.P.T. General Workers' Union—the Union which has raised the instant dispute—had made elaborate submissions with regard to the duties and responsibilities and especially with reference to the miscellaneous work including the work relating to caissons performed by the Dock and Flotilla crew, and Shri Meher in Para 20 of his Award dated 7th December 1964 [published in the Gazette of India, Part II, Sec. 3(ii) dated 2nd January 1965] had directed that (a) all lascars who complete six months service should be given special allowance of Rs. 2/- p.m. in addition to their Grade pay for doing miscellaneous work and (b) this allowance will not be admissible to any lascar who are at present entitled to caisson allowance of Rs. 6/-". I may here state that it is admitted that before Shri Meher, the B.P.T. and the B.P.T. Employees' Union, which represented the shore crew, agreed that the shore crew who were, like the Dock Flotilla Crew, then being paid Caisson allowance of Rs. 2/- p.m. should be paid a caisson allowance of Rs. 6/- per month with effect from 1st October 1957. This agreement was not communicated in writing but was orally stated before Shri Meher—without the B.P.T. General Workers' Union being informed of it. Later, as desired by Shri Meher, a written application dated 10th October 1964 was filed before Shri Meher in which the categories of shore crew who were to get this increased allowance of Rs. 6/- per month was stated and this was recorded by Shri Meher in Para 19 of his Award as follows:—

Para 19.—“At the hearing, the parties agreed that the caisson allowance of Rs. 2/- given to the following categories should be raised to Rs. 6/- per month with effect from 1st October 1957.

Shore Tindel	S. No. 479
Syrang (Shore Grade II)	S. No. 501
Syrang (Shore Grade I)	S. No. 511
Lascars of Class I and II in service No. 6	S. No. 453 to 463
Tindel jetty Boats	S. No. 47"

The whole grievance of Shri Moitra, the General Secretary of the B.P.T.G.Ws' Union, which represents the Dock Flotilla crews, is that whilst both the Shore Crew represented by the B.P.T. Employees' Union, and the Dock Flotilla Crews were drawing a uniform caisson allowance of Rs. 2/- per month, the B.P.T. by an agreement reached with Dr. Shanti Patel, General Secretary of the B.P.T. Employees' Union, had without the knowledge of the B.P.T.G.W. Union, and in fact whilst keeping it in the dark about it, entered into an agreement to give the shore workers an increase of Rs. 4/- in the caisson allowance which was denied to crews of the Dock Flotilla. Shri Moitra has further argued that immediately on publication of the Meher Award when the Union came to know of the consent terms reached between the B.P.T. and B.P.T. Employees' Union, under which the Shore Crew got an increase in their caisson allowance of Rs. 4/- p.m. bringing it to Rs. 6/- p.m., and found that Shri Meher had only allowed a miscellaneous allowance of Rs. 2/- p.m. for a section of the Dock Flotilla, being the Lascars

Grade I numbering 111, and Lascars Grade II, numbering 14 (in all 125) out of a total compliment of 308 workmen of the Dock Flotilla Crew, it protested and raised the demand for payment of Caisson allowance of Rs. 6/- for the Dock Flotilla Crew also. But the immediate point for consideration is whether the instant demand cannot be adjudicated upon on the merits because of the directions contained in the Meher Award. I am of the opinion that those directions cannot bar adjudication of this dispute. Firstly, the dispute before Shri Meher was, as I have shown earlier, in respect of anomalies in the pay scales of the various categories of employees mentioned in the order of reference to him. Secondly, the question of grant of any increase in Caisson allowance was not directly before Shri Meher and he got seized of it only when the B.P.T. and B.P.T. Employees' Union orally mentioned to him the agreement reached between them to increase the Caisson allowance in respect of the shore crew only, from Rs. 2/- to Rs. 6/- p.m. The B.P.T. General Workers' Union admittedly got no chance to make its submissions with regard to payment of increased Caisson allowance to the Dock Flotilla Crew. The grant of a special allowance of Rs. 2/- as miscellaneous allowance, which was paid to Lascars Grade I and II of the Dock Flotilla Crew, was clearly incidental not to the demand made before Shri Meher for better scales of pay but because of the settlement that was reached between the B.P.T. and the B.P.T. Employees Union of which the B.P.T. General Workers' Union was kept in ignorance. In these circumstances, I do not think there is any justification in the second legal objection urged by the B.P.T. and the same is therefore rejected.

6. The third legal objection urged by the B.P.T. against the instant reference being entertained by this Tribunal is that by a letter dated 10th May 1958 (referred to in T.R. No. 453 of the B.P.T. copy of which B.P.T. has filed as Annexure 4 to its written statement), the Secretary of the B.P.T.G.W. Union had protested against the payment of Caisson allowance to the Dock Flotilla Crew and had questioned the B.P.T.'s authority to pay the same. In that letter the Union had also demanded that the Caisson allowance for the work of the dry Dock Caisson should be disbursed among the Shore Crew only. The B.P.T. has stated that at that time it was the shore crew and not the Dock Flotilla crew who were members of the Union. But that since then presumably the shore crew had left this union and the Dock Flotilla Crew had joined in it and that this accounted for the Union now making this claim on behalf of the Dock Flotilla Crew. The B.P.T. has submitted that the migration of the workmen from one Union to the other is the root cause of the present industrial dispute. It has stated that this Union assumes opportunistic roles and changes its position as to suit its convenience needlessly causing industrial unrest and consequent administrative difficulties. It has submitted that, therefore, this demand should be rejected on this plea which it has described as its third preliminary objection.

7. Now, Shri Moltra's explanation for his letter of 10th May 1958 is that in 1958 an assurance was given to the Flotilla Crew of the Alexandra Docks that the Flotilla Crew will not be required to move the Caisson and therefore it was that the B.P.T. General Workers' Union wrote the said letter. This appears to be so, for in Para 2 of that letter the B.P.T. General Workers' Union had stated:—

"We beg to refer to the 1st Resolution of the Trustees in this connection and have to point out that in the terms of the said Resolution it is only the shore Lascars who are entitled to the payment of special allowance for the work of Dry Dock Caisson".

This letter must also be read in the context of how payment of the Caisson allowance started. It appears that originally, since 1886, the amount being paid was a dry dock allowance for moving the caisson and the ship in and out of the dry dock. It appears that formerly the charge was levied per ship. Originally it was half-an anna, later it was raised to one anna and then to six annas and finally under T.R. 558 of 1957 to Rs. 2/- per month for the Mere-weather dry dock and in 1958 under T.R. No. 514 of 1958, it was granted to the Hughes Dry Dock of the Alexandra Dock at the same rate of Rs. 2/- p.m. It appears that formerly the total amount of the charge per ship was allowed to accumulate for several months till the pool had amounted to a substantial amount after which it was distributed equally between the Dock Flotilla Crew and the Shore Crew. It was only after 1957 that for the first time the B.P.T. started paying on per month basis. It appears that in 1958 the Audit Department had objected to payment of Caisson allowance to the shore crew on the ground that (a) the caisson work was part of the normal duty of the workers concerned and (b) then the Port Department shore crew worked on 2 shifts whilst formerly they were working in a single shift. But the Chairman considered that the handling of a Caisson which is technically a floating craft was part of their duties, but since it was paid from 1896 he

not want to disturb its payment (See T.R. No. 453 of 1958) read in light of these events the remarks of Shri Moltra contained in his letter dated 10th May 1958, cannot now be used against him so as to bar his present demand particularly as it is admitted that since 1960—the B.P.T. once again started using the Dock Flotilla Crew for Calsson work and that it is Shri Moltra's case that from May 1958 till September 1960—the Dock Flotilla crew were not being called upon to do Calsson work at Alexandra Dock. This stand of Shri Moltra finds support from the statements made by the General Manager of the B.P.T. in Paras 4 and 5 of his note dated 18th April 1963 (Page 14 of B.P.T.'s written statements) where he had *inter-alia* stated:—

Para 4.—"The B.P.T.G.W's Union represented in December, 1960 that the tug crews who prior to 1st May 1958 had shared the amount with the shore Laskars and who had been excluded from the arrangements from that date, should be made eligible to the allowance as tugs are again being utilized for the towing and placement of the Calssons."

Para 5.—"While the Union's contention is not un-true, it must be pointed out that the towing of calssons, which is done on an average about once a month, is not in any way an operation essentially different from the towing of a vessel. Accordingly the grant or the restitution of this allowance could be justified on historical grounds. Since this allowance has been paid but for the break between 1958 and now, continuously since 1886, the Chairman, who has had several discussions in the matter with the Union concerned, is not averse to its restoration. He had as a matter of fact concerned this point in October, 1962".

8. In the result, I hold that there is no substance in this, the third preliminary objection of the B.P.T.

9. I shall now deal with the written statements of the parties. The Union in its written statement has dealt at length with the history of the payment of calsson allowance to which I have referred partially earlier. The history as it appears from the written statements of the parties and from the Trustees Resolutions annexed to the Bombay Port Trust's written statement is as under:—

10. It appears that by T.R. No. 248 of 1896, the payment of Rs. 10/- or Rs. 6/- to the staff of the Prince's and Victoria Docks was sanctioned. The difference in the rates varied according to the nett tonnage of the vessel. Rs. 10/- was paid for attending the calsson, and for moving a vessel in or out of the Mere-weather Dry Dock, and in Prince's Dock having a registered tonnage of 1000 and over, Rs. 6/- was sanctioned for similar jobs having a net registered tonnage below 1000. No authority is traceable about the fixation of the dry dock fees according to the tonnage of the vessel but it is a practice of many years. In 1914 when the Alexandra Dock was opened the above payment was made applicable to the Senior Dockmaster's staff of Alexandra Dock for doing similar jobs at Hughes Dry Dock. Up to 1st January 1920, the Assistant Dockmaster or the Berthing Master who attended such jobs were paid Rs. 3/- out of Rs. 10/- and Rs. 2/- out of Rs. 6/- and the remaining amounts i.e. Rs. 7/- or Rs. 4/- as the case may be, were distributed among the crews of the respective docks. By Trustees Resolution No. 286 of 30th March 1920 the payments to the Assistant Dockmaster or Berthing Master were stopped and the full amount of Rs. 10/- or Rs. 6/- as the case may be started being distributed among the crew. The dry dock fees according to the rates indicated above were distributed through the pay sheets every quarter of the year among the following staff of the Dockmaster's Department.

Alexandra Dock

Shore staff.—All men excluding bhandaries and bhandary mates. Crews of dock tugs only excluding the crews of the Harbour tugs and Bhandaries.

Prince's Dock

Shore Staff.—All men excluding bhandaries and bhandary mates and cassub plus 7 men of Victoria Dock. Crews of dock tugs and launches excluding harbour tugs and bhandaries.

The fees were distributed to all the above men irrespective of the number of men attending on the jobs. At that time an increase in amount to Rs. 15/- at Hughes Dry Dock was suggested. The Chairman by his minute dated 15th May 1958 suggested that the quantum should be raised to Rs. 15/- and the amount shared by the lascars. This was considered at the meeting of the Trustees when the

Chairman said that he had suggested an increase in amount to Rs. 15/- at the Hughes Dry Dock after thorough examination of the matter. The Chairman observed that the payment had commenced in 1896 but the precise reasons therefor were not indicated in the records. He was of the view that the handling of the caisson which was a floating craft was part of these employees' normal duties but as the practice was longstanding he did not wish to disturb it now. He suggested that the amount payable at the Mere-weather Dry Dock should be shared among the shore lascars at the Prince's and Victoria Docks and at the Hughes Dry Dock amongst shore lascars at the Alexandra Dock. None others could participate. The application of the Minimum Wages Act to the payment would however be examined separately. By T.R. No. 453 of 20th May 1958 the Chairman's proposal as clarified in the discussion was sanctioned and it was decided to give effect to the proposal from 1st May 1958. I may pause here and state that this Resolution was passed as a result of the demand made by the B.P.T. General Workers' Union by its letter dated 9th April 1958 to the Deputy Conservator in which it had claimed that unless the rate of payment of this special allowance was adequately raised it would not be possible for the men to attend to the work of dry dock caisson from 24th April 1958. This letter was written as a result of representations to the Deputy Conservator that the rate of allowance paid to the shore and the Flotilla crew was not at all commensurate with the nature of the work or change of circumstances.

11. The Union in paragraph 10 of its written statement has stated that it had been informed by the Dock authorities categorically that the dock Flotilla staff will not be required to handle any work in connection with the movement of the caisson and that as a matter of fact the Dockmaster, Alexandra Dock had stopped using the dock Flotilla staff for the movement of the caisson since the beginning of the year 1958, and that was the reason why the union had informed the Port Trust Administration that the enhanced caisson allowance should not be shared with the dock Flotilla staff and further that it should not also be shared with the office poriwallas, signalmen, etc. who had nothing to do with the movement of the caisson. According to the Union, this was conceded by the Trustees Resolution No. 453 of 20th May 1958.

12. Under Trustees Resolution No. 514 of 3rd June 1958 it was decided that for handling the caisson of Hughes Dry Dock the shore lascars borne on the Senior Dockmaster's establishment, Alexandra Dock should each be granted with effect from 1st May 1958 a caisson allowance of Rs. 2/- per month, the allowance to be treated as part of the wages of the men concerned, for computation of overtime allowance due to them under the Minimum Wages Act. The allowance of Rs. 2/- was restricted for payment only to the shore crews and not to the members of the dock Flotilla staff. According to the Union under Trustees Resolution No. 866 of 1958 the term shore lascars was defined to include shore lascars first and second class and their tindals and syrangis. In 1959 it was felt that there should be uniformity of payment of caisson allowance to the shore staff of the Alexandra Dock and the Prince's and Victoria Docks. It was, therefore, suggested that the shore staff of the Prince's and Victoria Docks should also be paid the caisson allowance at the rate of Rs. 2/- per month. Later upon an objection by the Accounts Department the decision under Trustees Resolution No. 514 of 1958 and 866 of 1958 for payment of caisson allowance of Rs. 2/- per month for handling caisson work at the Hughes Dry Dock to the shore lascars borne on the Senior Dockmaster's establishment, Alexandra Dock, came to be reviewed on the ground that

- (a) the caisson work forms part of the normal duties of men; and
- (b) the Port Department shore crews work now on two shifts per day basis whereas they were formerly working in a single shift.

This objection was not upheld as it was pointed out that the grounds advanced by the Government audit had been taken into account by the Trustees before they took the decision recorded in T.R. No. 514 of 1958.

13. Thereupon, the Trustees by Resolution No. 558 of 16th June 1959 sanctioned payment of the caisson allowance to the Dock Master's staff working the shore establishment at Prince's and Victoria Docks also at the rate of Rs. 2/- per month.

14. Thereafter, on 20th December 1960 the union claimed that as the Alexandra Dock Flotilla staff were being called upon to attend to the work of caissons they should be paid 50% of the special allowance for caisson work or in the alternative they should not be called upon to undertake such work. The Bombay Port Trust by its reply dated 20th January 1961 informed the union that the handling of the caisson which is a floating craft is part of the normal duties of the dock

crew and as the work is occasional the demand was not justified. The union in its letter dated 17th February 1961 addressed to the Deputy Secretary of the Bombay Port Trust submitted that when the Administration had decided to discontinue the special allowance to the Flotilla staff the union and the workers concerned had not raised any objection because the Flotilla crew was then not called in for the removal of the caisson and the work used to be done by the shore workers of the Alexandra Dock; that it was also due to the fact that the union had sponsored the claim that the special allowance for the work of the caisson should be paid to the shore lascars only. But the conditions prevailing which had induced the union to take that stand had changed by the order of the Senior Dockmaster under which the Flotilla was started for being used for the removal of the caisson and as such there was no inconsistency in the claim made by the union that the dock Flotilla workers should be paid 50% of the special allowance for work in connection with the caisson. The union further claimed that it was not correct to say that the handling of the caisson was part of the normal duties of the dock Flotilla crew and therefore they could not be considered eligible for payment of special allowance. It pointed out that if the argument were accepted it would also be part of the normal duties of the shore crew to handle any floating mechanism either self-propelled or towed inside the docks; but in spite of this fact the shore crew were being paid the special allowance and from the beginning caisson allowance was not considered to be part of the normal duties of either the shore crews or the dock Flotilla crew. The union denied that the work of the dock Flotilla crew was occasional and intermittent and argued that if intermittency is to be made applicable it would apply four square to the shore crews of the Dock Master for the simple reason that the dock Flotilla staff have to remain on board their vessel and attend to maintenance of steam, stoking of fire and other jobs whereas the shore crews remain inactive when no ships are required to be towed through the dock entrance for the purpose of mooring or unmooring. As the Administration could not agree to the union's demand the union decided unilaterally to stop undertaking any caisson work. Ultimately by T.R. No. 339 of 18th April 1963 the Trustees decided that caisson allowance at the rate of Rs. 2/- per head per month should be paid to 308 employees of the dock Flotilla staff working under the Senior Dock Master, Alexandra Dock.

15. Later, upon a representation by the union the Trustees under their Resolution No. 1145 decided to extend the benefit of the payment of caisson allowance to certain other categories and the union was informed of it by the Administration's letter dated 25th January 1964.

16. The Union in para 21 of its statement of claim has urged that since 1886 the staff of the Senior Dock Master working in the dock Flotilla and the shore establishment used to be paid caisson allowance equally; that even when the amount of annas four in six months they were being paid at an equal rate from 1886 to 1958; that the dock Flotilla staff ceased to receive the caisson allowance when the Dock Master decided not to use the dock tugs for movement of the caisson; that as a matter of fact when this decision was taken by the Dock Master and intimated to this union it was this union which had sought the stoppage of caisson allowance to the dock staff. In September 1960 the Senior Dock Master issued orders asking the dock tugs to be utilised for the purpose of movement of caisson and upon such order being issued this union by its letter of December 1960 raised the claim that the dock Flotilla staff be paid once again the caisson allowance to the dock Flotilla staff was made at the same rate as is paid to the shore staff.

17. In paragraph 23 of its statement of claim the union has stated that in 1964 when the employers decided to enhance the caisson allowance be Rs. 6/- per head per month which was being paid to the shore staff, it was incumbent on them to have intimated their decision to this union; that the employers had not advanced any argument as to why the caisson allowance of Rs. 2/- per head per month paid to the shore staff had been enhanced to Rs. 6/- per head per month in the proceedings before Shri Meher and in this connection the union had relied upon paragraph 19 of the Meher Award which I have extracted earlier in paragraph 5 above.

18. The union has also relied upon the following observation in paragraph 20 of Shri Meher's Award:—

"The caisson work has to be done by a few lascars at a time and has to be done on occasions only. The allowance of Rs. 2 per month has been already on high side. If it had not been for the agreement, I should have considered the special allowance of Rs. 3 to Rs. 4 to

be adequate for the categories for whom an allowance of Rs. 6 has been agreed to."

19. The Union has also emphasised that when in paragraph 19 Shri Meher used the word "parties" he referred to the Bombay Port Trust Administration and the B.P.T. Employees' Union as it was these two parties who had agreed that the caisson allowance of Rs. 2 should be raised to Rs. 6.

20. In paragraph 25 the Union has stated that no arguments had been advanced before Shri Meher that the shore staff of the Senior Dock Master were called upon and required to undertake greater workload in connection with the movement of the caisson and therefore the caisson allowance was being raised from Rs. 2 to Rs. 6 per month. It has stated that as a matter of fact no such argument could be advanced by the employer and that if such a plea is now raised it should be considered as an afterthought.

21. In paragraph 26 of its written statement the union has stated that there is no reason to differentiate and distinguish the shore staff from the dock flotilla staff as far as the question of payment of caisson allowance is concerned and it has argued that as a matter of fact if responsibility is to be compared the dock flotilla have higher responsibilities than the shore staff.

22. In paragraph 27 of its written statement the union has claimed that the Tribunal should hold that the dock flotilla staff are entitled to claim payment of caisson allowance at the same rate as is applicable to the crew of the Alexandra Dock shore establishment. It has further urged that considering that the shore crew had got the benefit of the enhanced caisson allowance with effect from 1st October, 1957, the dock flotilla crew were also entitled to the same enhanced rate from 1st October, 1957. But taking into consideration the fact that the flotilla crew was not being called upon to undertake any work in connection with the movement of caisson from 1958 to September, 1960, it has limited its claim for retrospective effect from 1st September, 1960.

23. The Bombay Port Trust in paragraphs 1 to 10 of its written statement has dealt with the preliminary objections with which I have dealt earlier.

24. With reference to the paragraphs in the union's written statement of claim in which it has given a history of the payment of the caisson allowance the Bombay Port Trust has relied upon its Trustees Resolution Nos. 453 of 1958 and 339 of 1963, which I have noticed earlier. In paragraph 11 of its written statement the Bombay Port Trust has admitted receipt of the union's letter of 20th December, 1960, but does not admit the submissions and contentions raised therein. Like-wise, the Bombay Port Trust admits the correspondence referred to in the union's written statement to which I have referred earlier but does not admit the submissions and contentions contained therein which are contrary to or inconsistent with the submissions made by it in its written statement.

25. With reference to paragraph 21 of the union's written statement the Bombay Port Trust does not admit that since 1886 the staff of the Senior Dock Master and the dock flotilla crew used to be paid the allowance equally. It has denied that the dock flotilla crew ceased to be used by the Dock Master for the purposes of the movement of the caissons as alleged by the union and consequently ceased to receive the caisson allowance. The Bombay Port Trust has denied that the Dock Master had decided not to use the dock flotilla crew staff for the purposes of movement of the caissons and that they had intimated this fact to the union. It has stated that the union had championed the cause of the shore crew in the year 1958, only on account of the fact that they were then the members of the union. The Bombay Port Trust admits that prior to 1st May, 1958, the amount paid to the shore and flotilla crew was termed as dry dock fees and was distributed equally among the staff. It has explained as already noticed earlier that the amount paid was not a fixed allowance and varied according to the number of ships that entered and left the dry dock during each quarter of a year. The Bombay Port Trust in paragraph 14 of its written statement has refuted the submissions made in paragraph 22 of the statement of claim of the union and has stated that even assuming without admitting that the Senior Dock Master had issued orders in September 1960 for the dock flotilla crew to attend to the towing and replacement of caissons he did so as it formed part of their normal duties as seamen. The Bombay Port Trust has urged that the towing of a floating caisson with the help of a tug is one of the traditional duties of the lascars who are in receipt of a caisson allowance of Rs. 2 per month plus a special allowance of Rs. 2 per month awarded by Shri Meher thus making a total of Rs. 4 per head per month. The Bombay Port Trust has stated that the shore crew is entitled to the higher allowance of Rs. 6

per month because of the greater frequency of the operations carried out by them. It has submitted that the difference of Rs. 2 per head per month between the shore crew and the dock flotilla crew is based upon a scientific appraisal of the former's work. The Bombay Port Trust has submitted that though on merits the dock flotilla crew are not deserving of anything they are paid Rs. 2 as caisson allowance and Rs. 2 as special allowance making Rs. 4 per head. The Port Trust has stated that the allowance of Rs. 6 per month for the shore crew is justified because of the higher workload which the latter put forward as shown in the statement exhibit E-2 which is as follows:—

BOMBAY PORT TRUST

Port Department

Statement showing handling of caissons work by Shore and Dock Flotilla crew from 1963 to 1965

Year	No. of Jobs attended by shore crew		Total	No. of Jobs attended by flotilla crew		Total
	Alex, Dock	P&V Docks		Alexandra Dock.	P&V Docks	
1963	165	51	216	24	4	28
1964	153	51	204	18	—	18
1965	158	39	197	27	7	34

26. The Bombay Port Trust in para 23 of its written statement has relied upon the observation of Shri Meher in his award that he would have considered a special allowance for caisson work of Rs. 3 to Rs. 4 per month as adequate for the categories for whom an allowance of Rs. 6 was agreed to. The Bombay Port Trust has submitted that since a large majority of the flotilla crew are now in receipt of Rs. 4 per head per month which in actual practice amounts to more than Rs. 4 on account of the fixed overtime available to the flotilla crew and the dearness allowance on it the claim now advanced by the union on behalf of the dock flotilla crew should be deemed to have been fully adjudicated upon and met to the satisfaction of the workmen. The Bombay Port Trust has submitted in paragraph 17 of its written statement that the decision to enhance the caisson allowance was taken *bona fide* and is fully justified having regard to the workload of the members of the shore crew of the Dock Master in relation to the dock flotilla crew. It has urged that not only did the members of the dock flotilla crew carry out the caisson work very rarely as shown in exhibit No. E-2 but that only 2 tugs out of a total number of about 13 are utilised on each occasion and only about 20 members of the crew are actually required to carry out the work as against about 310 persons who are being paid at present in respect of whom an increase in the allowance is now demanded. It has denied that the flotilla staff have got higher responsibilities than the shore crew deserving payment of caisson allowance on equal basis. It has denied that the claim of the union for retrospective effect from 1st September, 1960, is justified and has stated that the demand does not arise.

27. At the hearing, the B.P.T. led the evidence of Shri E. M. Mulla, the Senior Assistant Dock Master (E.W. 1), whose duties are to look after the maintenance work of the Docks and its tugs. I had also the benefit of inspection of the caissons at the Alexandra Dock and Princess and Victoria docks, with the representatives of the parties.

28. The B.P.T.'s witness (E.W. 1) has stated that there would be about 24 workmen on the 2 tugs employed for each caisson work, and that at the Alexandra Docks each caisson operation would last 45 minutes to 90 minutes. He has explained the caisson operation in detail. He has stated that the Caisson is moved for docking or undocking a ship and that a caisson has necessarily to be moved to dock or undock a ship. Of the 3 Caissons at the Princess and Victoria Docks the one at No. 16 Victoria Dock is not used for berthing or unberthing ships. The Caisson at the communication passage between the Princess and Victoria Docks is also not normally used for docking and undocking of ships and during the 23 years of his service he had not seen either of these two caissons used for docking or undocking purposes. As was explained to us at the inspection, the two Caissons at the Victoria Docks are meant to be used only

in times of emergency such as break down of the lock gates, etc. Witness, however, stated that the Flotilla Crew were required very often at the Mere-weather Dry Dock. This was because, if the G. Berth is occupied, the caisson there has to be shifted to another vacant berth. He, however, went on to add that what he meant was that the B.P.T. is required to operate with tugs when that caisson is under repairs and that in his recollection the Caisson at Princess Dock (Mere weather Dry Dock) had been under repairs only on 3 or 4 occasions—for 3 or 4 months on each occasion, and that the process of towing takes only 30 minutes at the minimum and 60 minutes at the maximum. In cross-examination he admitted that the two laskars from the shore who go on top of the Caisson with the check ropes do not have to do any work except to put them on the bollard on the top of the Caisson. He also admitted that Flotilla berth is also used for keeping the caisson at the Princess Dock and that the Caisson at the entrance of the Mere weather Dry Dock would have to be shifted elsewhere if a ship longer than 250 ft. is berthed at the G. Berth, which rarely happened. He denied that the Caisson though a floating craft required to be surveyed and repaired every year. He further admitted that where the Caisson at the entrance to the Alexandra Dock is shifted to the first engine-room corner, the operation requires the services of 14 to 20 shore-laskars. He admitted that these workmen were required to prevent the Caisson dashing against the harbour wall. He denied that the work of shifting the caisson from one place to another by the shore-crew did not involve either skill or hazard, and stated that it involved both. But witness had to concede that he had no engineering knowledge on which this opinion was based. He admitted that whenever berth No. 1 in the Alexandra Dock is not found vacant the Caisson has to be shifted to some other berth with the help of the Flotilla Crew. The witness gave evidence on 8th August, 1967 and had to admit that since 1st August, 1967, the berth No. 1 at Alexandra Dock was not found vacant, nor doing the last 10 days of May, 1967. He also admitted that the Mere weather Dry Dock is not easily available for ships requiring repairs. With regard to his statement that the shore crews would require skill and hazard, he admitted that there was not a single accident caused as a result of the wire slipping from the Capstain and that the Caisson at Alexandra Docks is not required to be used more than 5 or 6 times in the course of six months.

29. The conclusion that I have reached on the evidence of the B.P.T.'s witnesses coupled with what I saw and was told at the inspection both at the Alexandra Dock and the Princess and Victoria Docks is that the work on the Caisson is undoubtedly an important operation and I do believe that the work done by the Flotilla Crew calls for skill and involves hazards. I am fortified in this conclusion from the observations contained in T.R. No. 653. The total emoluments of the Laskars of the floating staff of the Deputy Conservative Department are never less than the total emoluments of the Dock shore Laskars as the discomforts and hazards that the Flotilla staff have to accept are not borne by the Dock Shore Staff. Even to-day the total emoluments of the Dock Flotilla Crew are 25 per cent higher than those of the shore crew.

30. It is no doubt true, as pointed out by Shri Meher that only a few workmen both from among the shore and the Flotilla Crew are employed for each Caisson operation, but nevertheless a monthly allowance is paid to all the shore crew and the Dock Flotilla staff and is not limited only to those who actually work at each operation. This has been the practice since 1886 and that is why the Chairman of the B.P.T. supported payment at the uniform rate. It must be remembered that when the allowance of Rs. 2 per month was raised to Rs. 6 per month before Shri Meher under the agreement reached between the B.P.T. and the B.P.T. Employees' Union, only two shore workers were required to be on the Caisson in the Princess and Victoria Docks. Therefore, the caisson allowance is not based on the actual quantum of work involved but is paid to all the shore crew and the Dock Flotilla Crew equally, not being limited to those who actually work at each operation.

31. The first question for determination under the terms of the reference to me is whether the crew of the dock Flotilla of the Trustees Port Department are entitled to claim payment of caisson allowance at the same rate as is applicable to the crew of the Alexandra Dock shore establishment and the second question is whether such payment should be made with any retrospective effect and if so from what date.

32. As will be clear from what I have stated earlier, both the shore workers and the dock flotilla crew were until Shri Meher's aforesaid award was made in 1964, being paid allowance for what has come to be known as caisson work at a uniform rate which came to be fixed at Rs. 2 per month in 1958. The

present dispute has arisen because of the change in this uniform rate which was made under Shri Meher's award by which only the shore crew got an increase in their caisson allowance of Rs. 4 bringing it to Rs. 6 per month. As is clear from paragraphs 18, 19 and 20 of the Meher Award the increase was granted by Shri Meher not on an appraisal of the work that the shore crew were doing as compared with the work of the dock flotilla crew, but merely as a result of an agreement having been reached between the Bombay Port Trust and the Bombay Port Trust Employees' Union. In fact, Shri Meher in his award has stated that he considered this increase excessive and had it been left to him he would not have given at best more than Rs. 4 by way of this allowance. It is clear to me that the genesis of the present dispute and much of the trouble that has ensued since has been the direct result of this oral agreement entered into by the Bombay Port Trust with the Bombay Port Trust Employees' Union. In my opinion, the grievance of Shri Moitra that he was deliberately kept in the dark about this agreement is justified. It is unusual for a party to an industrial dispute like the Bombay Port Trust to reach an agreement of payment of an allowance without presenting it in writing. It was only when Shri Meher called upon the parties to state what were the categories who were covered by this agreement that the Bombay Port Trust and the Bombay Port Trust Employees' Union filed the statement referred to in paragraph 19 of Shri Meher's award giving the particulars of the categories for whom the allowance should be raised to Rs. 6 per month and that too with effect from 1st October, 1957.

33. It is, in my opinion, significant that nowhere has Shri Meher stated that the dock flotilla crew were not to be entitled to Rs. 6 as caisson allowance. It also seems to me that but for the fact that this agreement was filed before Shri Meher he would not have awarded the grant of the miscellaneous allowance of Rs. 2 nor would he have given the direction that those who were to get the enhanced allowance of Rs. 6 per month would not be entitled to the special allowance of Rs. 2 per month which he granted to a section of the dock flotilla crew. It is also significant that before Shri Meher neither the Bombay Port Trust Employees' Union nor the Bombay Port Trust General Workers' Union had made a claim for a separate allowance for the Caisson work or for the special allowance for the miscellaneous work which they were doing. The claim of both the unions before Shri Meher was that there was an anomaly in the scales which have been fixed by the Jeejeebhoy Committee considering all the duties that the shore crew and the dock flotilla crew were performing and it was only because an agreement was filed that Shri Meher in paragraphs 19 and 20 of his award granted the enhancement in the rate of what has come to be known as the caisson allowance. It is significant to note that Shri Meher in his Award has nowhere drawn a distinction between the nature of the work and the quantum and the responsibility and skill involved in the work done by the shore crew and dock flotilla crew. In fact in the Meher Award there is no assessment of the work done by the Shore Crew as compared with the work done by the Dock Flotilla Crew.

34. A word is necessary as regards the special allowance being paid to a section of the dock flotilla crew. The dock flotilla crew consists in all 308 workmen and the special allowance of Rs. 2 for miscellaneous work is being paid only to 111 laskars of the First grade and 14 laskars of the Second grade. Thus out of the 308 workmen of the dock flotilla crew only 125 are getting Rs. 4 per month made up of Rs. 2 as caisson allowance and Rs. 2 by way of special allowance for miscellaneous work. The special allowance was granted by Shri Meher to them for the special duties which are going up to the mast, whipping, fixing tag springs, laying navigational marks, heaving boats, chipping and painting the body of the vessel, cleaning water tanks, lowering and taking out the anchor generally, constructing fenders, splicing ropes both wire and coil, scrubbing the dock—all of which have been detailed in paragraph 16 of the Meher Award. Thus whilst under the Meher Award only about 125 out of the 308 of the dock flotilla crew get this special allowance of Rs. 2 i.e. in all Rs. 4 the rest of them who constitute a majority get only a caisson allowance of Rs. 2 per month. As against this all the 515 shore crew workmen got Rs. 6 per month, with retrospective effect from 1st October, 1957, whilst before the agreement with the B.P.T. Employees' Union all of them were getting a uniform rate of Rs. 2 by way of caisson allowance which the Dock Flotilla were also getting. I am satisfied that this amounts to unjustified discrimination. I am also of the opinion that on the basis of the work done by both the shore crew and the dock flotilla crew the payment of Rs. 6 per month would probably be an excessive payment. But the main point involved here is that the B.P.T. having agreed to grant the

enhanced payment of Rs. 6 to the shore crew can the same in justice and fairness be denied to the dock flotilla crew? In my opinion, on the facts and circumstances it cannot, because to deny the same to the dock flotilla crew would be to perpetrate an unfair and unjustified discrimination. It is significant as fairly admitted by Shri M.R.S. Captain, the learned Legal Adviser of the B.P.T. that in the past the allowance was paid for handling ships and not caissons and the expression 'caisson allowance' is in a sense a misnomer. Formerly, this was a charge recovered from shipping companies and distributed among the workmen equally and willy nilly it had to be continued. It was for some time discontinued for the dock shore workers and again continued. This allowance was being paid equally to the shore crew and the Dock Flotilla Crew since 1886 till the change was brought about by the agreement reached between the B.P.T. and the B.P.T. Employees' Union before Shri Meher. It seems to me that Shri Moitra's contention that this agreement was entered into not out of consideration of the merits but because the B.P.T. wanted to favour the B.P.T. Employees' Union is not without substance. The fact that it was stated as an oral agreement and the B.P.T. General Workers' Union was kept in the dark about it, supports this inference. It is admitted by the B.P.T. that Shri Moitra, though he was regular in attending the hearings before Shri Meher was not informed of this agreement.

35. Much emphasis has been laid by Shri Shetty, Deputy Legal Adviser of the Bombay Port Trust on the extracts of the statements filed by the Bombay Port Trust Employees' Union and the Bombay Port Trust General Workers' Union before the Central Wage Board for Port and Dock Workers and in the written statements before Shri Meher; that in the statements filed by the Bombay Port Trust General Workers' Union before Shri Meher and the Jeejeebhoy Committee nowhere has it laid any special emphasis on the caisson work done by the dock flotilla crew for the enhancement of the scales of pay demanded by it, whilst the Bombay Port Trust Employees' Union in its written statements had laid special emphasis on it. He has stated that the Bombay Port Trust General Workers' Union had in its statement sought to cover the caisson work under the expression "etc" and that the Bombay Port Trust General Workers' Union in its statement of claim against item 151 before the Jeejeebhoy Committee had stated that the dock flotilla crew had to perform all the duties of a sailor. But I do not think that these statements can justify the discrimination that had been practised against these workers. Those written statements were made in a different context when better scales of pay were being demanded and existing anomalies removed and cannot be used against them when they claim parity in the matter of caisson allowance with the shore workers. It is also clear that the Bombay Port Trust also did not understand those references as relating to caisson allowance because if that were so there would have been a denial for any additional payment for the work on that basis in the written statements of the Bombay Port Trust.

36. I am afraid much of the evidence which was sought to be put in by the Bombay Port Trust in the instant case has been more as an after-thought to justify the agreement which it had entered into with the Bombay Port Trust Employees' Union. Although the dock flotilla crew were required to handle the caisson work on lesser number of occasions than the shore crew they were always entitled to payment of caisson allowance at the same rate and the whole crux of the present demand is that by entering into the agreement with the Bombay Port Trust Employees' Union before Shri Meher the B.P.T. had practised discrimination against these workmen.

37. In this connection, I may also notice that after the hearing was completed Shri R. K. Shetty, the Deputy Legal Adviser of the Bombay Port Trust addressed a letter to me dated 14-8-1967 enclosing extracts of pages 125 to 127 from the statement of claim of the Bombay Port Trust Employees' Union dated 23rd November 1963. It is stated at item No. 14 of page 127 that one of the special jobs of the shore workers is to remove, place or pull caissons during docking or dry docking. But the point is that there is nothing in Shri Meher's Award to show that any arguments were addressed by the Bombay Port Trust Employees' Union on that score and there is no discussion on this aspect of the question by Shri Meher.

38. It is worthy of note that all the lascars of the flotilla crew do not get the miscellaneous allowance of Rs. 2/-. For instance the allowance is not paid to the lascars of the Butcher Island nor is it paid to the lascars of the mobile crane or to the crew of the pilot vessel.

39. Shri Moitra for the Bombay Port Trust General Workers' Union has demanded that the lascars of the dock flotilla crew who were getting the special allowance of Rs. 2/- for miscellaneous work and also the caisson allowance of Rs. 2/- should

also get the additional Rs. 4/- which is paid to the shore crew workmen and it should not be limited to Rs. 6/-. In other words Shri Moitra wants for the Lascars 1st and 2nd grade of the Dock Flotilla Crew, Rs. 6/- as Caisson allowance plus Rs. 2/- as miscellaneous allowance under the Meher Award. This would result in the lascars grade 1 and 2 of the dock flotilla crew getting total special allowance of Rs. 8/- and would in my opinion spiral another industrial dispute by the shore crew claiming an additional allowance of Rs. 2/-. As it is, the grant of Rs. 6/- as extra allowance to the shore crew under the agreement of the Bombay Port Trust with the Bombay Port Trust Employees' Union is, in my opinion, also excessive. I am also of the opinion that the total amount of extra allowance paid either by way of caisson allowance or miscellaneous allowance should not be more than Rs. 6/- per month.

40. For the reasons stated above, on the first question I hold that the crew of the dock flotilla of the Trustees' Port Department are entitled to claim payment of caisson allowance at the same rate as is applicable to the crew of the Alexandra Dock shore establishment, i.e. of Rs. 6 per month, inclusive of the Rs. 2/- as miscellaneous allowance for those to whom it is paid.

41. Now with regard to the second question whether any retrospective effect should be granted to this increased rate of Caisson allowance and if so, from what date, I am satisfied that the crews of the dock flotilla are entitled to retrospective effect. The shore crew got the retrospective effect from 1-10-1957, but Shri Moitra has fairly stated that he does not claim retrospective effect from that date because the dock flotilla crew were not doing any caisson work from May 1958 to September 1960. He has, therefore, claimed that retrospective effect should be granted to them from 1st September, 1960. The Bombay Port Trust General Workers' Union made the claim for restoration of the caisson allowance in December 1960 by its letter dated 20th December 1960 in which it had stated as follows:—

"The Senior Dock Master Alexandra Dock by an order issued some three months back had made it obligatory for the Alexandra Dock flotilla to attend to the work of removal of the caissons which are carried by the tugs from the dry dock to a position between berth No. 9 and 10 Alexandra Dock. The flotilla staff have carried out the orders of the Dock Master without any objection as they considered it their duty to carry out the order first."

42. The Port Trust Administration in its reply dated 20th January 1961 did not deny the statement of the union that the Senior Dock Master had issued orders some three months earlier as stated by the union in its said letter. This claim of the union finds support in the statements made by the General Manager of the Bombay Port Trust in paras 4 and 5 of his minute dated 18-4-1963 which I have extracted in para 7 of this Award. This would show that the dock flotilla crew were doing the caisson work since about September 1960. I, therefore, feel that the claim for payment of the caisson allowance at the enhanced rate of Rs. 6/- inclusive of Rs. 2/- by way of miscellaneous allowance should be granted with retrospective effect from 1-9-1960 and I award accordingly.

No order as to costs.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,

Central Government Industrial Tribunal, Bombay.

[No. 28/52/65-LRIV.]

New Delhi, the 8th September 1967

S.O. 3271.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Jabalpur, in the industrial dispute between the employers in relation to the Quarries of the Kymore Cement Works of Associated Cement Company Limited and their workmen, which was received by the Central Government on the 26th August, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM
LABOUR COURT, JABALPUR

Dated August 5, 1967

PRESENT:

Sri G. C. Agarwala—Presiding Officer.

REFERENCE No. 11 OF 1965 (BOMBAY TRIBUNAL)

REFERENCE No. CGIT/LC(R)(109)/67 (JABALPUR TRIBUNAL)

In the matter of an industrial dispute between the workmen and the employers in relation to the Quarries of the Kymore Cement Works of Associated Cement Company Limited, Kymore (Madhya Pradesh).

APPEARANCES:

For the employers—Sri N. L. Verma of the concern.

For the workmen.—None.

INDUSTRY: Cement Quarries.

DISTRICT: Kymore (Madhya Pradesh).

AWARD

By Notification No. 22/25/64/LRI dated 27th January, 1965, the following matter of dispute as stated in the schedule to the order of reference was referred to Central Govt. Industrial Tribunal, Bombay for adjudication from where this case was transferred to this Tribunal by Notification No. 26/11/66-LRI, dated 4th April, 1967;

Matter of Dispute

- (1) Whether all or any of the workmen employed in quarries of Kymore Cement Works of Associated Cement Company Limited, are entitled to the free supply of uniform and footwear; if so, at what scale and under what conditions.
- (2) Whether the demand of the workmen employed in the said quarries for allowing accumulation and carrying forward of sick leave is justified? If so, to what extent.

The case remained pending before the Bombay Tribunal from 12th February 1965 till it was transferred to this Tribunal by Order dated 4th April, 1967.

On issue of usual notices by this Tribunal, the parties stated on the first date of hearing which was 27th June 1967 that they were negotiating a settlement and wanted time which was allowed. A compromise petition purporting to be signed by both parties was received with employers application on 7th July, 1967, notice was issued to the Union, Kymore Quarry Karamchari Sangh, to show cause why the same would not be accepted. The management representative appeared but none came for the Union. The management again presented a petition dated 24th July 1967 purported to be signed for both parties stating how both the issues under reference have been settled. The contents of the compromise petition with the annexures are reproduced and appended to this award. Annexure A to the petition covers the dispute regarding uniforms and footwear and Annexure B relates to issue No. 2 on the question of leave. Both the annexures, however, deal with other matters but cover the issues under reference also. The terms of these settlement are fair and advantageous to the workmen. Accepting the settlement I record an award accordingly.

(Sd.) G. C. AGARWALA,
Presiding Officer.
5-8-67.

ANNEXURE

BEFORE THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT (CENTRAL), JABALPUR

In the matter of Adjudication No. 109 of 1967
(Old Ref. No. CGIT-11 of 1965)

The Associated Cement Cos. Ltd., Kymore Limestone Quarries, P.O. Kymore,
Distt. Jabalpur, M.P.

AND

Their workmen as represented by the Kymore Quarry Karamchari Sangh, P.O.
Kymore, Distt. Jabalpur, M.P.

May it please your honour,

Both the parties above named beg to jointly state as under :

1. That the preliminary hearing and the settlement of issues in this adjudication is fixed for 2nd August 1967.

2. That both the parties above named have arrived at amicable settlements of the issues covered by the order of reference in this adjudication.

3. That the First issue referred to this Hon'ble Tribunal relates to the supply of Uniforms and footwear. The parties above named, *vide* settlement dated 26th June, 1967 have completely and finally resolved the dispute and arrived at a Settlement. A copy of the settlement is annexed hereto marked as Annexure 'A'.

4. That the issued No. 2 referred to this Hon'ble Tribunal relates to accumulation of sick leave. The parties above named, *vide* their settlement dated 23rd June, 1967 have completely and finally resolved the dispute and have arrived at an amicable Settlement by para 1 of the said Settlement. A copy of the Settlement is attached hereto and marked as Annexure 'B'.

5. That copies of both the aforesaid Settlement have been duly forwarded to the following authorities amongst others:

1. Conciliation Officer (Central), Jabalpur.
2. The Regional Labour Commissioner (Central), Jabalpur.
3. The Chief Labour Commissioner (Central), New Delhi.
4. The Secretary to the Government of India, Ministry of Labour, Employment and Rehabilitation, New Delhi.

That thus both the issues between the above named parties have been finally resolved.

Prayer

Both the parties above named, therefore, pray that this Hon'ble Tribunal may be pleased to pass an Award in terms of the Settlements.

Dated at Kymore this Twentyfourth Day of July 1967.

Sd/- Illegible.

24-7-67.

Secretary.

Kymore Quarry Karmachari Sangh,
Kymore.

For the Associated Cement Cos. Ltd.,
(Sd.) Illegible,

Agent.

Kymore & Bamangawan Limestone
quarries.

ANNEXURE A

*Settlement under section 2(p), 18(1) and 19 of the Industrial Disputes Act, 1967
as amended up to date*

NAMES OF PARTIES:

(1) The Associated Cement Companies Limited, Bombay.

Represented by:

Mr. P. K. Mistry,
Managing Director.

Mr. K. R. Coorlawala,
Director.

Mr. J. P. Munsiff,
General Manager, Operations
Division.

Mr. R. H. Ranga Rau,
Labour Relations Adviser.

Mr. S. T. Edward,
Senior Labour Relations Officer.

Mr. K. B. Sengupta,
Senior Officer.

Mr. M. S. Kapur,
Personnel Officer.

AND

(2) The Workmen employed by the Associated Cement Companies Limited, at their various factories:

Represented by:

1. Kymore Cement Mazdoor Congress, Kymore;
2. Kymore Quarry Karmachari Sangh, Kymore;
3. Lakheri Cement Kamgar Sangh, Lakheri;
4. Cement Kamdar Mandal, Porbandar;
5. Dwarka Cement Works Employees' Union, Dwarka;
6. Sevalia Cement Workers' Union, Sevalia;
7. Cement Factory Mazdoor Panchayat, Katni,
8. Chaibasa Cement Workers' Union, Jhinkpani;
9. Cement Factory Workers' Union, Sindri;
10. Khalari Cement Workers' Union, Khalari;
11. Mancherial Cement Works Employees' Union, Mancherial;
12. Sitarampuram Mines Employees' National Union, Pidugurella;
13. Cement Factory Mazdoor Sangh Banmor,
14. Malla Quarry Workers' Union, Malla; and
15. A.C.C. Quarry Workers' Union, Balasinor.

V

Through:

The Indian National Cement Workers' Federation.

Short Recital of the Case

Whereas the parties desire to settle certain demands by agreement;

And whereas in pursuance of the aim and desire of the workmen represented by the Unions listed above, they have authorised the signatories to negotiate and conclude through the Indian National Cement Workers' Federation, a settlement;

Now, therefore, in pursuance of the above consideration and realising the advantage of settlement for the workers and the Company, the workmen and the Company enter into the following Settlement:

Settlement

1.0 *Uniforms, Protective equipment, etc.:*

1.1 The parties agree to the provision of uniforms as per list annexed hereto and marked as Annexure 1. It is further agreed that where any demands, conciliation and adjudications regarding uniforms are pending where the workmen herein are parties, these will be withdrawn.

1.2 It is also agreed that such of the workmen, outside the Annexure 1 who are getting uniforms at present will continue to get the same during their service period as personal to them.

1.3 It is also agreed that such of the categories, outside Annexure 1 and outside the existing standard list, annexed and marked as Annexure II who are getting jersey, chappals, shoes, gumboots, raincoat, umbrella and protection equipment will continue to get the same for the present, but this aspect will be subject to review after a period of two years from date.

1.4 Only permanent workers in the categories listed in the Annexure will be entitled to these uniforms, etc., listed in the Annexure.

1.5 Wherever aprons and biller suits are indicated, workers will have option to have pants and shirts.

1.6 The settlement on this issue will come into effect at the time of next supply of the uniforms immediately hereafter and not later than September 1967 to new categories under this Settlement.

2.0. One copy of this Settlement will be sent to all the concerned Labour Authorities of the Central and the State Governments.

Dated at Bombay this Twentysixth day of June 1967.

For and on behalf of the Associated
Cement Companies Limited.

For and on behalf of the Indian National
Cement Workers' Federation (autho-
rised by the Unions listed above);

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

Witnesses :

Witnesses :

1. Sd/-

1. Sd/-

2. Sd/-

2. Sd/-

ANNEXURE I

Uniforms/Protective clothing applicable to the various categories of workers.

Category	Items	Qty.	How often.
1. Issuers/Tally checkers/Mazdoors, whose duty is always to issue oils, Greases & tools	Pant Shirt	2 2	Yearly
2. Boiler Attnds.	Boiler Suit	2	Do.
3. Turbine Attnds.	Pant Shirt	2 2	Do.
4. Boiler House Fireman	Pant Shirt	2 2	Do.
5. Machinery Attnd. working on moving machines	Pant Shirt	2	Do.
6. Pump Attnd.	Do.	Do.	Do.
7. Greasers	Do.	Do.	Do.
8. Pointsmen	Do.	Do.	Do.
9. Miller	Do.	Do.	Do.
10. Bags Branding Mazdoors.	Do.	Do.	Do.
11. Moulder.	Do.	Do.	Do.
12. Asstt. Moulder.	Do.	Do.	Do.
13. Furnace Attnd.	Boiler Suit	2	Do.
14. Painter/Asstt. Painter.	Shirt Pant	2 2	Do.
15. Diesel Loco Driver.	Do.	Do.	Do.
16. Steam Loco Driver	Boiler Suit	Do.	Do.
17. Loco Fireman (Steam)	Do.	Do.	Do.
18. Packers.	Shirt Pant	2 2	Do.
19. Mazdoors working in Packing Plant as Loaders, screens, check wrighment and cleaning.	Shirt Pant	Do. 2	Do.
20. Canteen Boys/ Vendors/ Cleaners.	Do.	Do.	Do.
21. Motor Lorry Truck Drivers.	Do.	Do.	Do.

Category	Items	Qty	How often
22. Sweepers	Pant	2	Yearly.
	Shirt (Half sleeve)	2	
23. Female Sweepers.	Saree	2	Do.
	Blouse	2	
24. Peons/Chaprasis	Pant	2	Do.
	Closed Coat	2	
25. Tally checkers working in Packing Plant.	Pant	2	Do.
	Shirt	2	
26. Motor Mechanic.	Overall	2	Do.
27. Cooks in canteen	Pant	2	Do.
	Shirt	2	
28. Watch & Ward Supervisor & Watchmen	As per Company's Standard List.		
29. Drivers	Pant	2	Do.
	Shirt	2	
30. Ayas/Nurse	As per Company's Standard list.		
31. Stitchers working in Packing House	Pant	2	Do.
	Shirt	2	
32. Welder/Asstt. Welder	Pant	2	Do.
	Shirt	2	
33. Blacksmith	Boiler Suit	2	Do.
34. Hammerman	Do.	Do.	Do.
35. Crusher Attd/Asstt. Crusher Attd and Mazdoors working inside the Crusher House.	Do.	Do.	Do.
36. Mazdoor stop Mazdoors.	Do.	Do.	Do.
37. Stone, Coal & Gypsum Crusher Mazdoors	Pant	2	Do.
	Shirt	2	
38. Motor and Mazdoor Lorry Cleaners.	Do.	Do.	Do.
39. Fitters/Asstt. Fitters	Boiler Suit	2	Do.
40. Ropeway Linemen	Pant	2	Do.
	Shirt	2	
41. Overhead Crane Operator	Do.	Do.	Do.
42. Turners/Asstt. Turners/Machinist/Driller (Workshop), Machine Tool operator	Do.	Do.	Do.
43. Mazdoors/Helpers working in K In including Jamman, Coal Mill, Cement Mill, Raw Mill, Motor Garage attached to maintenance, Coal unloading Mazdoors, Gypsum unloading Electric and Diesel Sections.	Overall	2	Do.
44. Persons engaged on bringing samples (Laboratory Dept.)	Pant	2	Do.
	Shirt	2	
45. Permanent Khalasis on maintenance muster including Diesel Section, Coal Mill Raw Mill, Cement Mill and Crusher.	Pant	2	Do.
	Shirt	2	
46. Mates/Mistry in Packing Plant	Do.	Do.	Do.
47. Mazdoors/Helpers in Gas Producer Plant who are directly connected with the coal gas at Katni	Do.	Do.	Do.
48. Mason working in Kiln.	Pool of Boiler suits to be kept in Deptt. for use whenever necessary.		
49. Shift Electrician/Helper.	Pant	2	Yearly
	Shirt	2	
50. Mazdoors in sanitation gang.	Pant	2	Do.
	Shirt (half sleeve)	2	
51. Heavy Equipment Operator including Shovel Operator.	Pant	2	Do.
	Shirt	2	
52. Scraper Hauler Operator.	Do.	Do.	Do.
53. Tractor Driver	Do.	Do.	Do.
54. Compounder.	Do. (White)	Do.	Do.
55. Ward Boys	2 pants in place of shorts being given		Do.

Category	Items	Qty.	How often
56. Loaders and unloaders working on Ropeway if they came indirect touch with stonedust, oil or grease.	Pant Shirt	2 2	Yearly
57. Female mazdoors working as Stitches, Darners and Bags Branders in Packing House.	Saree Blouse	2 2	Do
58. Quarry Drillers and Helpers to Quarry Drillers	Pant Shirt (Half Sleeve).	2 2	Do

Woollen Jerseys.

Woollen Jerseys shall be supplied to the category of workmen listed below at Kymore, Bhupendra, Lakherji, Banmor, Sindri, Chaibasa and Khalar and Balasinor Quarries, one in every three years

1. Euclid Drivers.
2. Dumper Drivers
3. Shovel Drivers
4. Bulldozer Drivers
5. Tractor Drivers.
6. Pointsmen.
7. Diesel Loco Driver.
8. Petrol Trolley Driver at Balasinor.

ANNEXURE II

The Associated Cement Co. Ltd

Statement Showing uniforms and protective clothing issued to employees

Category	Item	Qty.	How often
<i>Watch & Ward.</i>			
1. Supervisors.	i. Peake Cap	1	Once in 3 years.
	ii. Shirt Khaki	2	Yearly.
	iii. Open collar tunic of Khaki Drill	2	"
	iv. Trousers Khaki drill	2	"
	v. Necktie khaki	2	"
	vi. Leather cross belt (Brown)	1	Once at the beginning of services.
	vii. Shoes (Brown)	1 Pair.	Once in 2 years.
2. Havildars.	Same as per Watchmen Havildars should have 3 white stripes (1½" wide) on their right shoulder, 6" below the shoulder seam.		
3. Watchmen.	i. Side cap khaki drill	1	Yearly.
	Side cap woollen	1	Once in 3 years.
	ii. Close collar tunic of khaki drill.	2	Yearly.
	iii. Brass buttons or tunic	1 set	At the start of service.
	iv. Shorts khaki drill	2	Yearly.
	v. Ammunition boots.	1	Once in 2 years.

Category	Item	Qty.	How often
	vi. Leather belt of 2½" width with brass buckle of 4" x 2½" x 1/8" engraved with ACC & name of the Works under it.	1	At the start of service.
	vii. Putties Khaki		
	(a) Woollen . . .	1	Once in 3 years.
	or (b) Khaki cotton	1	Once in 2 years.
	viii. ACC Badge in brass to be worn above left pocket of tunic	1	As required.
	ix. Whistle with chain.	1	"

(Waterproof caps and woollen coats to be kept in central stock for issue to watchmen on duty only).

NOTE : One pair of trousers may also be issued annually to the Watchmen for night duty during winter. In the case of Sikh Watchmen, pugaree should be substituted for side cap.

Gorkha Watchmen may be allowed to wear their Khukari and the Sikhs their Kirpan if they so desire.

Ex. Servicemen may also be allowed to put on their Medal Ribbons.

Hospital

1. Nurses—	{ White sarrees* . . .	4	Yearly
(a) Those wearing sarrees.	{ White blouses . . .	4	"
	{ White canvas shoes . . .	1 pair	"
(b) To those wearing European dress.	White frock of (nurse type)	4	"
	White head gears . . .	4	"
* (medium quality) . . .	Cotton stockings . . .	4 pairs	"
	Canvas shoes . . .	1 pair	"
2. Dressers	Khaki Shirts	2	"
	Khaki Shorts	2	"
	Khaki aprons	2	"
	Khaki Canvas shoes . . .	1 pair	"
3. Ward Boys	Khaki shirts	2	"
	Khaki shorts	2	"
4. Ayahs (also Creche Ayahs) .	White Sarrees (Ordinary) .	4	"
	White Blouses	4	"

Canteen

1. Cooks & Asstt. Cooks. . . .	Khaki aprons	2	"
2. Servers	Khaki shirts	2	"
	Khaki shorts	2	"
3. Cleaners	Khaki shirts	2	"
	Khaki shorts	2	"

General Office, Tins Office, School etc.

Chaprasis	Closer collar tunic of khaki drill	2	"
	Khaki Trousers	2	"
	Turban or cap.	1	"

Category	Item	Qty.	How often
<i>Managers' bungalow, Director's Bungalow & Guest House.</i>			
Bearer	White close collar tunic	3	Yearly
	White trousers	3	"
	Turban	2	"
Manager's Car driver	Close collar tunic	2	Khaki plus "
	Trousers	1	white
	Do.	1	"
	Peak Cap	1	Khaki
Sweepers	Khaki shirts & shorts	2	White
Female Sweepers.	Saree and Blouse.	2	"

Protective Equipment

Category	Type of equipment	No. of items	How often
Workers who go inside bins or hoppers or who work at a height or at any hazardous place.	Safety belts.	A sufficient number to be kept in Central pool or in each department to be issued by the Departmental Head as and when required.	
Blacksmiths Welder Moulders Machinists Rivettors	Leather	One each	Once a year or less often as found necessary.
Welders, Blacksmiths	Gauntlets	One pair each	Once a year or less often as necessary.
Rivettors and others handling rough or hot jobs.	Leather Gloves or Asbestos Gloves.	One pair each.	Do.
Electricians, Wiremen, Mazdoors handling trailing cables.	Rubber Gloves.	One pair each.	New ones to be issued as and when necessary.
Millers Fitters Burners Mazdoors	working in slurry cement or hot clinker. Gum Boots	To be issued for use whenever required from a stock maintained in the Departments concerned.	
Welders, Electricians.			
Workers in duty places, Stone breakers, Machinists, Welders Grinders, Cupola men	Do.	As and when required for use.	
	Goggles	One pair each.	At reasonable intervals depending on the type of Goggles.
Stone breakers Welders	Helmet	One each	As and when required to be replaced.
Stone breakers	Shin guards (or pattis)	One pair each.	Yearly.
Employees working in dusty places like stone crusher pit, coal crusher pit, Packing House, Clinder and crushed limestone extraction tunnels etc.	Respirators or where these are not favoured by workers, cloth pieces.	(a) One respirator or (b) sufficient cloth for two pieces.	(a) To be replaced when broken or spoiled. (b) One in three months.
Burners, Asstt. Burners Mazdoors, working in hot clinker hot cement and coal dust Welders, Asstt. Welders, Welder helpers.	Eye shields	To be maintained in the Department for use as required.	
	Boots, shoes or chappals.	One pair each	Yearly.
	Welding Screens Face shields.	To be maintained for use as and when required.	

PROTECTIVE CLOTHING (UNIFORMS)

Category	Type of Uniform	No. of items	How often
Millers	Shirts & shorts	2 pairs.	Yearly.
Greasers	"	"	"
Machinery Attendants (such as employees attending moving machinery such as pumps, compressors, belts, elevators etc.) (At fluxo—Two full pants and two full shirts)	Shirts & shorts	2 pairs.	Yearly.
Bags Branding Mazdoors.	"	"	"
Pointsmen	"	"	"
Motor Cleaners.	"	"	"
Diesel Loco Drivers.	"	"	"
<i>Truck Drivers.</i>			
Dumper Drivers	"	"	"
Bulldozer Operators.	"	"	"
Crusher Operators.	"	"	"
Shovel Operators.	"	"	"
Turbine Attendants.	"	"	"
Steam Loco driver.	Boiler Suits.	Two	"
Loco Firemen, Asstt. Firemen	"	"	"
Quarry Mechanics.	"	"	"
Motor	"	"	"
Mazdoors working inside boilers.	"	To be issued for use whenever required from stock maintained in the Department.	
Packers	Aprons.	Two	Yearly.
Drillers (Quarry)	"	"	"
Motormen	Overalls.	"	"
Moulders	"	"	"
Painters	"	"	"
Linemen	Raincoat with cap or umbrella.	One	Once in two years.
Shunting staff	"	"	"
Pointsmen	"	"	"
Cement Loading Mazdoors (stackers)	Aprons.	Two	Yearly.
Boiler Attendant	Shirts & Shorts	Two pairs	"
Overhead Crane drivers.	"	"	"

ANNEXURE 'B'

SETTLEMENT UNDER SECTION 2 (P), 18(1) AND 19 OF THE INDUSTRIAL DISPUTES ACT, 1947, AS AMENDED UP TO DATE.

Name of Parties:

(1) The Associated Cement Companies Limited, Bombay.
Represented by:

- Mr. P. K. Mistry, Managing Director.
- Mr. K. R. Coorawala, Director.
- Mr. J. P. Munsiff, General Manager, Operations Division.
- Mr. B. H. Ranga Rau, Labour Relations Adviser.
- Mr. S. T. Adward, Senior Labour Relations Officer.
- Mr. K. B. Sengupta, Senior Officer.
- Mr. M. S. Kapur, Personnel Officer.

AND

(2) The Workmen employed by the Associated Cement Companies Limited, at their various factories:

Represented by:

1. Kymore Cement Mazdoor Congress, Kymore;
2. Kymore Quarry Karmachari Sangh, Kymore;
3. Lakheri Cement Kamgar Sangh, Lakheri;
4. Cement Kamdar Mandal, Porbandar;
5. Dwarka Cement Works Employees' Union, Dwarka;
6. Sevalia Cement Workers' Union, Sevalia;
7. Cement Factory Mazdoor Panchayat, Katni;
8. Chaibasa Cement Workers' Union, Jhinkpani;
9. Khalari Cement Workers' Union, Sindri,
10. Khalari Cement Workers' Union, Khalari;
11. Mancheria Cement Works Employees' Union, Mancheria;
12. Sitarampuram Mines Employees' National Union, Riduguralla,
13. Cement Factory Mazdoor Sangh, Banmor;
14. Malla Quarry Workers' Union, Malla; and
15. ACC Quarry Workers' Union, Balasnor.

Through:

The Indian National Cement Workers' Federation.

Short Recital of the Case

Where the parties desire to settle certain demands by agreement;

And whereas in pursuance of the aim and desire of the workmen represented by the Unions listed above, they have authorised the signatories to negotiate and conclude through the Indian National Cement Workers' Federation a settlement;

Now, therefore, in pursuance of the above consideration and realising the advantages of settlement for the workers and the Company, the workmen and the Company enter into the following settlement:—

*Settlement**1.0. Accumulation of sick leave:*

1.1. The parties agree that sick leave for 6 years will be allowed to be accumulated. If at the time of death or retirement, any sick leave remains unavailed of, it shall be encashable at the rate of 50 per cent of basic wage/salary and dearness allowance drawn prior to retirement or death of the employees. This applies both to monthly-rated as well as daily-rated workmen. This Settlement is in respect of accumulation of sick leave only and will not in any way prejudice any other aspect of sick leave.

1.2. The accumulation of sick leave will come into force with effect from 1st January, 1967.

2.0. Special equipment allowance:

2.1. The parties agree that Special Equipment Allowance shall be paid to Operators at the rate specified on the day they perform work on any of the equipments mentioned below:

Capacity

- | | |
|--|---------------------------------------|
| 1. Shovels, Drag Lines, Claim-Shell | 3-4 C. yard capacity and above. |
| 2. Gantry Crane | |
| 3. Mobile | Lifting capacity 15 tonnes and above. |
| 4. Bulldozers Angledozer | 100 H. P. and above. |
| 5. Tractors, Draglines, Payloaders | 1½ c. Yard capacity and above. |
| 6. Scrapers | 1½ c. Yard and above. |
| 7. Dumpers used in quarrying operation | 10 tonnes capacity and above. |
| 8. Joy Blast Hole Drills | 6" dia and above. |

Special Equipment Allowance will be paid at the rate of:—

A Grade—35 paise per day.

B Grade—25 paise per day.

C Grade—15 paise per day.

2.2 The operators working on any of the above type of equipments but of lesser capacity than described in Column 2 above will be paid an allowance at the rate of:—

A Grade—20 paise per day.

B Grade—15 paise per day.

C Grade—10 paise per day.

2.3 It is further agreed that the workmen operating or any of the following equipment shall be paid allowance shown below:—

Truck Drivers

Tractor Drivers.

Drivers employed on Amenity Buses

Helco Drill Operators.

Allowance:

A Grade—20 paise per day.

B Grade—15 paise per day

C Grade—10 paise per day.

2.4. The above allowance shall be paid with effect from 1st July, 1967.

3.0 This Settlement will come into immediate effect and will remain in force for a period of 3 years and shall continue even thereafter until terminated by either party. The party desiring to terminate the Settlement shall be required to give two months' notice in writing to the other party and the Settlement shall be deemed to be in operation until expiration of such notice.

3.1. During the period of this Settlement, no dispute shall be raised or demand made on subjects covered by this Settlement and the Company shall not reduce the benefits thereof.

4.0. One copy of this Settlement will be sent to all the concerned Labour Authorities of the Central and the State Governments

Dated at Bombay this Twentvthird day of June, 1967.

For and on behalf of the Associated
Cement Companies Limited.

Sd/- K. R. Koorlawala.

For and on behalf of the Indian National
Cement Workers' Federation (autho-
rised by the Unions listed above):

Sd/- H. N. Trivedi.
Sd/- D. D. Khoda
Sd/- A. A. Maradla.
Sd/- S. M. Solanki.
Sd/- Vishwanath Prasad
Sd/- R. K. Sharma.
Sd/- M. Ameeruddin.
Sd/- J. P. Verma.
Sd/- Shaikh Ahmed.
Sd/- Emanuel.
Sd/- Raghunandan
Sd/- Jhuni Lal Gupta.
Sd/- T. S. Badurla.
Sd/- A. K. Roy.
Sd/- Lakhanlal.
Sd/- Jagjit Singh Chougla.

Witnesses :

1. Sd/- R. H. Ranga Rau.
- 2 Sd/- M. S. Kapur

Witnesses :

1. Sd/- C. Jankiram.
2. Sd/- Om Prakash.

(Sd.) G. C. AGARWALA,
Presiding Officer.
5-8-1967.

ORDERS

New Delhi, the 7th September 1967

S.O. 3272.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the United Commercial Bank Ltd., Surat and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the management of United Commercial Bank Limited, Surat in discharging Shri S. I. Vinawala, Clerk, from their service with effect from the 8th June, 1967 was justified? If not, to what relief is the workman entitled?

[No. 51/54/67-LR.III.]

S.O. 3273.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Punjab Co-operative Bank Ltd., Amritsar and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Ishwar Das Pawar shall be the Presiding Officer, with headquarters at Chandigarh and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the demand of the workmen of the Punjab Cooperative Bank Ltd., Amritsar that the terms and conditions of their service should be in accordance with the memorandum of settlement arrived at on the 19th October 1966 between the managements of the banks as represented by the Indian Banks Association, Bombay, Bombay Exchange Banks Association, Bombay and the workmen of the said banks as represented by the All India Bank Employees Association and All India Bank Employees Federation, is justified? If so, to what relief are they entitled?

[No. 51/48/67-LR.III.]

New Delhi, the 8th September 1967

S.O. 3274.—Whereas, the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Associated Cement Companies Quarries, Balasnor and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri D. M. Vin as the Presiding Officer with headquarters at Ahmedabad and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Whether the demand of the workmen of the Quarry of the Associated Cement Companies Balasnor, for revision of the gratuity scheme applicable to them for giving effect to the following principles, is justified:—

- (i) Gratuity should be paid at the rate of one month's total salary including dearness allowance for each year of service in case of death, mental or physical disability to continue in service and superannuation:

- (ii) Gratuity should be paid at the rate of one month's total wages including dearness allowance for each year of service in case of resignation or termination of services for whatever reason, and
- (iii) Gratuity should be paid to an employee who is dismissed or discharged for misconduct except in cases where such misconduct causes financial loss and in that case only so much of the gratuity as is adequate to make good such loss should be withheld.

If so, to what relief are the workmen entitled.

[No. F.36/21/67-LRL]

S. S. SAHASRANAMAN, Under Secy

(Department of Labour and Employment)

New Delhi, the 4th September 1967

S.O. 3275.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Additional Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Dhori Colliery, Post Office Bermo, District Hazari-bagh, and their workmen, which was received by the Central Government on the 29th August, 1967.

**BEFORE THE CENTRAL GOVERNMENT ADDITIONAL INDUSTRIAL TRIBUNAL
AT DHANBAD**

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 54 OF 1967

PARTIES:

Employers in relation to the Dhori Colliery, Post Office, Bermo, Distt. Hazari-bagh

, AND

Their Workmen.

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

APPEARANCES:

For the Employers.—Shri D. Narsingh, Advocate.

For the Workmen.—None.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated, the 24th August 1967

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Dhori Colliery, P.O. Bermo, Distt. Hazari-bagh and their workmen, by its order No. 2/24/65/LRII dated 29th June, 1965 referred to the Central Government Industrial Tribunal, Dhanbad under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

"SCHEDULE

- (1) Whether the action of the management of the Dhori Colliery in retrenching the workman Shri Tawhid Khan, (Driver) with effect from the 19th August, 1964, was justified?
- (2) If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 111 of 1965 on its file. The workmen filed their statement

of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May 1967 under section 33(B)(1) of the Industrial Disputes Act, 1947. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 54 of 1967. The employers also filed their statement of demands.

3. The Tribunal fixed 25th July 1967 as the date for hearing and ordered notice to the parties. When the case was taken up on 25th July 1967 no one was present on behalf of the workmen in spite of the Tribunal waiting till 11-30 A.M. The notice for the workmen was served on the Vice-President, Colliery Mazdoor Sangh, P.O. Bermo, District Hazaribagh (the address provided in the notification of the Central Government No. 2/24/65-LRII dated 29th June 1965). On behalf of the employers Shri D. Narsingh, Advocate appeared. However, the Tribunal thought that one more and a last opportunity should be given to workmen. Consequently the case was adjourned to 14th August 1967. On 14th August 1967 also no one appeared on behalf of the workmen in spite of the Tribunal waiting till 11-55 A.M. After the hearing dated 25th July 1967 a fresh notice was sent to the Vice-President, Colliery Mazdoor Sangh, P.O. Bermo, Distt. Hazaribagh and it was served on him on 28th July 1967 as is seen by the postal acknowledgement. The employers were represented by Shri D. Narsingh, Advocate. Under the circumstances the Tribunal heard the arguments of the learned Advocate for the employers choosing to proceed with the case in accordance with Rule 22 of the Industrial Disputes (Central) Rules, 1957 as if the workmen had duly attended or had been represented.

4. The case in brief of the workmen is that the employers artificially created dearth of jeep cars and thus retrenched Shri Tawhid Khan, the affected workman with effect from 19th August 1964. The stand of the employers is that they as a measure of economy retained only one motor vehicle at the colliery, that after the affected workman resumed his service at the colliery, the services of one of the two car drivers became surplus to the company's requirements at the colliery and that, as such, the affected workman being junior of the two drivers, was retrenched with effect from 19th August 1964 offering to pay him all the dues etc., due to him under the law. Thus, the onus was lying on the workmen to establish that the employers created artificially dearth of jeep cars and that the affected workman was senior in service to the other driver who is kept still in service. But there is absolutely no evidence and, as such, it cannot be held that the retrenchment of the affected workman was not justified.

5. Further, there is a legal impediment also in entertaining the reference. Admittedly, the Central Government refused to refer the dispute for adjudication as is seen by their letter No. 2/24/65 LRII dated nil and subsequently on further representation of the workmen they reversed their previous decision and referred the dispute for adjudication to the Central Government Industrial Tribunal, Dhanbad by its order No. 2/24/65-LRII dated 29th June 1965. This fact is also admitted by the workmen in para 11 of their statement of demands. The objection on behalf of the employers is that the present reference by the Central Government, revising its earlier decision was bad in law. I find that the objection of the employers is well founded, on the authority of the decision *Gondhara Transport Co. (P) Ltd. v. State of Punjab and others* (A.I.R. 1966 Punjab 354). Once the appropriate Government has taken a decision declining a reference in respect of the dispute it could not reconsider the matter subsequently and then make a reference. On this ground I find the reference as not valid.

6. The reference is, therefore, rejected as not valid. No order is passed as to costs. The Award is made accordingly and submitted under section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer.

[No. 2/24/65-LRII.]

New Delhi, the 8th September 1967

S.O. 3276.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Additional Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Mondal's Bilbera Colliery of Messrs. B. N. Mondal and Company, Post Office Katrasgarh, District Dhanbad and their workmen, which was received by the Central Government on the 1st September, 1967.

BEFORE THE CENTRAL GOVT. ADDL. INDUSTRIAL
TRIBUNAL AT DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE No. 57 OF 1967

PARTIES:

Employers in relation to Mondals' Bilbera Colliery of Messrs B. N. Mondal & Company, P.O. Katrasgarh (Dhanbad).

AND

Their Workmen.

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

APPEARANCES:

For the Employers—None.

For the Workmen—Shri Lalit Burman, Secretary, Bihar Koyla Mazdoor Sabha.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 28th August 1967

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Mondal's Bilbera Colliery of Messrs B. N. Mondal and Company, P.O. Katrasgarh, Dist. Dhanbad and their workmen, by its order No. 2/70/65-LRII, dated 21st July, 1965, referred to the Central Government Industrial Tribunal, Dhanbad, under section 10(1)(d) of the Industrial Disputes Act, 1947, for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The Schedule is extracted below:

"SCHEDULE

Whether the management of Mondal's Bilbera Colliery of Messrs B. N. Mondal and Company were justified in terminating the services of Shri Dukhi Chamar, Wagon Loader, with effect from the 11th May, 1965? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad, registered the reference as reference No. 121 of 1965 on its file. The workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII, dated 8th May, 1967, under section 33(B)(1) of the Industrial Disputes Act, 1947. Consequently the reference is renumbered on the file of this Tribunal as reference No. 57 of 1967. The employers also filed their statement of demands.

3. The case in brief of the workmen is that the services of Shri Dukhi Chamar, wagon loader of the employers colliery (herein-after referred to as the affected workman) were terminated without any valid reason by their letter, dated 11th May, 1965 and that it was so done because the affected workman and others complained to the Conciliation Officer etc., against the unfair labour practices of the employers. The stand taken by the employers is that the affected workman committed theft of the jewellery of the wife of Munshi Bhula another workman of the colliery, that the affected workman admitted having committed the theft and that, as such, his services were terminated by the letter, dated 11th May, 1965. The workmen were represented by Shri Lalit Burman, Secretary, Bihar Koyla Mazdoor Sabha. On 27th July, 1967, Shri Khagendra Nath Mondal Office clerk of the employers colliery submitted an application for adjournment. The case was adjourned accordingly to 17th August 1967, for evidence, oral and documentary and arguments of parties. On 10th August, 1967, the employers filed their statement of demands. But when the case was taken up on 17th August, 1967, and inspite of waiting till 11-45 A.M. no one appeared on behalf of the employers. The workmen were represented by Shri Lalit Burman, Secretary, Bihar Koyla Mazdoor Sabha. Under the circumstances the case was proceeded with in accordance with Rule 22 of the Industrial Disputes (Central)

Rules 1957 as though the employers were present or duly represented. On behalf of the workmen a witness was examined and Exts. W 1 to W 3 were marked. There is no evidence on behalf of the employers.

4. Ext. W 3 is the letter in original from the employers addressed to the affected workman. The letter is described as "chargesheet" and it is dated 11th May, 1965. It is stated therein that the affected workman committed theft of the jewellery of Shri Munshi Bhuia's wife, that the affected workman admitted his guilt and confessed the same in writing, that in view of the above the management lost all confidence in the affected workman and that his service was therefore terminated with immediate effect. The contents of the letter, Ext. W 3 are also admitted in the statement filed by the employers. It is obvious that the chargesheet and the punishment were made simultaneously through the letter Ext. W 3 and there was absolutely no enquiry at all in respect of the charge levelled against the affected workman. He was not given any opportunity to explain. Further, the theft alleged against the affected workman does not concern the colliery. For these reasons the inference is irresistible that the services of the affected workman were terminated in a manner not justified. I, therefore, hold that the management of Mondal's Bilbera Colliery of M/s. B. N. Mondal & Co., were not justified in terminating the services of Shri Dukhi Chamar, wagon loader with effect from the 11th May, 1965 and, as such, he is entitled to his full back wages and other benefits with effect from 11th May 1965. It is though his services were never terminated, till he is reinstated to his original post. No order is passed as to costs. The award is made accordingly and submitted under section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,
Presiding Officer.

BEFORE THE CENTRAL GOVERNMENT ADDITIONAL INDUSTRIAL TRIBUNAL
AT DHANBAD

REFERENCE NO. 57 OF 1967

Employers in relation to Mondal's Bilbera Colliery of M/s. B.N. Mondal & Co., P. O. Katrasgarh (Dhanbad).

AND

Their Workmen

List of Documents Admitted in Evidence for the Employers

Distinguishing mark or number	Description of document & date	Date of admission	Whether admitted or proved	Proved by
Nil	Nil	Nil	Nil	

List of Documents Admitted in Evidence for the Workmen

Distinguishing mark or number	Description of document & date	Date of admission	Whether admitted or proved	Proved by
Ext. W 1	Letter dt. 1-5-65 from Shri Dukhi Chamar and two others to the Manager, Bilbera Colliery (Annexure I)	17-8-67	Proved.	WW1.
Ext. W 2	Letter dt. 11th May 65 from the Agent, Mondal's Bilbera Colliery addressed to Sri Dukhi Chamar (Annexure 2)	Do.	Do.	Do.
Ext. W 3.	Original of Ext. W 2.	Do.	Do.	Do.

(Sd.) N. VENKATA RAO,
Presiding Officer,
Central Govt. Additional Industrial Tribunal Dhanbad.

BEFORE THE CENTRAL GOVERNMENT ADDITIONAL INDUSTRIAL TRIBUNAL AT DHANBAD.

Reference No. 57 of 1967.

PARTIES :

Em'ployers in relation to Mondal's Bilbera Colliery of M/s. B. N. Mondal & Co.
P. O. Katrasgarh (Dhanbad).

AND

Their Workmen

List of Witness Examined on behalf of the Employer

No. of witness	Name of the witness	Date of examination
NIL	NIL	NIL

List of witness Examined on Behalf of the Workmen

No. of witness	Name of witness	Date of examination.
WW1	Shri Lalit Burman	17-8-1967

(Sd). N. Venkata Rao.
Presiding Officer,
Central Govt. Additional Industrial
Tribunal, Dhanbad.
[No. 2/70/65-LR II]

S.O. 3277.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Chora Colliery, P.O. Bahula, District Burdwan and their workmen, which was received by the Central Government on the 4th September, 1967.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 16 OF 1967

PARTIES:

Employers in relation to the Chora Colliery,

AND

Their workmen.

PRESENT:

Shri S. K. Sen—Presiding Officer.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

By Order No. 6/107/66-LR II dated 10th February 1967, the Central Government referred for adjudication an industrial dispute between the employers in relation to Chora Colliery, P.O. Bahula, Dist. Burdwan, and their workmen arising out of dismissal of Shri Nityananda Mukherjee, Shotfirer of Chora Colliery with effect from 6th April, 1966. The Union representing the workmen is mentioned in the Reference Order as the Indian National Mines, Overman, Sirdar and Shotfirers' effect from 6th April, 1966. The Union representing the workmen is mentioned in by ordinary post, the Union has not appeared at all; the employers appeared on an intermediate date and filed an authority for their Deputy Chief Personnel Officer

to represent them before the tribunal. But on the date notified for hearing the employers' representative is also absent. It appears from the failure report that Niatyananda Mukherjee was dismissed after a departmental enquiry held after he was served with a chargesheet. In view of the conduct of the parties, it must be held that workman and his Union do not want to press the dispute. Accordingly, this Reference is disposed of on the footing that there is no dispute.

Dated, 31st August 1967.

(Sd.) S. K. SEN,
Presiding Officer.
[No. 6/107/66-LR.II.]

ORDERS

New Delhi, the 4th September 1967

S.O. 3278.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ena Colliery, Post Office Dhansar (Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Additional Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Ena Colliery, Post Office Dhansar, Dhanbad, was justified in dismissing from service Shri Barkhas Mia, Miner, with effect from the 2nd September, 1966? If not, to what relief is the workman entitled?

[No. 2/67/67-LR.II.]

New Delhi, the 6th September 1967

S.O. 3279.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudium Collieries (Andhra Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Mohammad Najmuddin, as Presiding Officer with headquarters at Afzal Lodge, Tilak Road, Ramkote, Hyderabad-1, and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Whether having regard to what is contained in paragraphs 340 to 346 of the Labour Appellate Tribunals decision the workmen of the service and Production Corps, Singareni Collieries Company Limited, Kothagudium, were entitled to three musters for work done on the 15th August, 1965, which is a paid holiday. If so, to what relief are the workmen entitled?

[No. 7/19/66-LR-II.]

S.O. 3280.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kusunda and Nayadee Collieries of Messrs Kusunda and Nayadee Collieries Company (Private) Limited, Post Office Kusunda, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Additional Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act

SCHEDULE

Whether the action of the management of Kusunda and Nayadee Collieries of Messrs Kusunda and Nayadee Collieries Company (Private) Limited, Post Office Kusunda, District Dhanbad in refusing employment to Shri Habu Bouri, Pick Miner with effect from the 13th July, 1966 and subsequently terminating his services with effect from the 7th December, 1966 was justified? If not, to what relief is the workman entitled?

[No 2/93/67-LRII]

S.O. 3281.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of 6 and 7 Pits Jamadoba Colliery, Post Office Jealgora (Dhanbad), and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication,

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Additional Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act

SCHEDULE

"Whether the management of No 6 and 7 Pits Jamadoba Colliery was justified in terminating the lien of Shri Uma Tury, on the post of Miner, and placing him in Badli list with effect from the 3rd September, 1965. If not, to what relief is the workman entitled?"

[No 2/63/67-LRII]

New Delhi, the 7th September 1967

S.O. 3282.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Saunda Colliery of National Coal Development Corporation Limited, Post Office Saunda, District Hazaribagh and their workmen in respect of the matters specified in the Schedule hereto annexed,

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication,

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Additional Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether Shri Mohammed Ibrahim, Conveyer Shifter of Saunda Colliery of Messrs National Coal Development Corporation Limited, Post Office Saunda, District Hazaribagh, is entitled for arrear of wages from the 1st November 1965 to the 7th December, 1965, transfer travelling allowance and return travelling allowance? If so, to what relief is the workman entitled?

[No. 2/36/66-LRII]

S.O. 3283.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Monoharbahal Colliery of Messrs Ratsahib Chandanmull Indiakumar (Private) Limited, Post Office Asansol, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed,

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication,

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act

SCHEDULE

Whether the management of Monoharbahal Colliery of Messrs Raisahib Chandanmull Indrakumar (Private) Limited, Post Office Asansol, District Burdwan was justified in terminating the employment of Shri Katrik Dharī with effect from the 29th June, 1967? If not, to what relief is the workman entitled?

[No. 6/65/67-LRII.]

New Delhi, the 8th September 1967

S.O. 3284.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Messrs Shaw Wallace and Company Limited, Post Office Parasia (Chhindwara), and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Jabalpur, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of Messrs Shaw Wallace and Company Limited Parasia, District Chhindwara (Madhya Pradesh), were justified in refusing to pay wages in accordance with the decision of the Labour Appellate Tribunal of India on appeals against the award of the All India Industrial Tribunal (Colliery Disputes) to Shri Yusuf from the 10th March, 1966 and subsequently stopping him from work with effect from 26th September, 1966? If not, to what relief is the workman entitled?

[No. 5/18/67-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 5th September 1967

S.O. 3285.—In exercise of the powers conferred by sub-section (1) of section 19 of the Minimum Wages Act, 1948 (11 of 1948), the Central Government hereby makes the following amendments in the Notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), S.O. 1098 dated the 23rd March, 1967, namely:—

In the Table appended to the said Notification—

(a) In item V, after serial No. 10, the following entry shall be inserted namely:—

“10A. Labour Enforcement Officer (Central), Jhansi”;

(b) in item VI, against serial No. 15, for the word “Ambala” the word “Chandigarh” shall be substituted;

(c) in item IX, after serial No. 13, the following entries shall be added, namely:—

“14. Labour Enforcement Officer (Central), Ratlam.

15. Junior Labour Inspector (Central), Agra.”

(d) after item X, the following new item shall be added, namely:—

“XI. Deputy Chief Labour Commissioner (Central), Dhanbad.

The States of Bihar, West Bengal, Union Territories of Manipur and Orissa, Assam, Nagaland and the Tripura”.

[No. LWI-I-2(3)/67.]

C. R. NAIR, Under Secy.

(Department of Labour & Employment)

New Delhi, the 7th September 1967

S.O. 3286.—Whereas Messrs ICI (India) Private Limited, No 34, Chowringhee Road, Calcutta-16 (hereinafter referred to as the said establishment) has applied for exemption under clause (b) of sub-section (1) of section 17 of the Employees' Provident Funds Act 1952 (19 of 1952);

And, whereas, the employees of the said establishment are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the Central Government is of opinion that such benefits are on the whole not less favourable to such employees than the benefits provided under the Employees' Provident Funds Act, 1952 (19 of 1952) and the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the said Act and the said Scheme respectively) in relation to employees in any other establishment of a similar character,

Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of section 17 of the said Act and subject to the conditions specified in the Schedule annexed hereto, the Central Government hereby exempts the said establishment from the operation of all the provisions of the said Scheme and in pursuance of sub-section (3) of the said section 17, the Central Government hereby directs that—

(a) the employer in relation to the said establishment shall pay within fifteen days of the close of the month to the Employees Provident Fund, inspection charges at the rate of 0.09 per cent (zero point zero nine per cent) of the pay (basic wages dearness allowance retaining allowance, if any and cash value of food concession admissible thereon) for the time being payable to the employees of the said establishment who would have become members under the said Scheme but for this exemption,

(b) the said employer shall invest the provident fund contributions in Central Government securities within thirty days of the close of the month to which the contributions relate

SCHEDULE

1 The employer shall submit such returns to the Regional Provident Fund Commissioner as the Central Government may, from time to time, prescribe

2 The employer shall furnish to each employee an annual statement of account on Pass Book

3 All expenses involved in the administration of the fund including the maintenance of accounts, submission of accounts and returns, transfer of accumulations, payment of inspection charges etc shall be borne by the employer

4 The employer shall display on the notice board of the establishment a copy of the rules of the fund as approved by the appropriate Government and, as and when amended, alongwith a translation of the salient points thereof in the language of the majority of the employees

5 Where an employee who is already member of the Employees' Provident Fund (Statutory Fund) or the Provident Fund of another exempted establishment is employed in his establishment the employer shall immediately enrol him as a member of the Fund of the establishment, and accept the past accumulations in respect of such employee and credit to his account.

6 The employer shall enhance the rate of Provident Fund contribution appropriately if the rate of provident fund contributions for the class of establishments in which his establishment falls is enhanced under the Employees' Provident Funds Act, 1952 so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefit provided under the Employees' Provident Funds Act, 1952

7 The establishment shall submit an audited balance sheet of its provident fund every year to the Regional Commissioner within 3 months of the close of the year

8 Notwithstanding anything contained in the provident fund rules of the establishment the amount payable to any member, upon his ceasing to be an employee of the establishment or transferable on his transfer to any other establishment by way of employer's and employees contributions plus interest thereon taken together with the amount, if any, payable under the Gratuity/Pension

Rules, be less than the amount that would be payable as employer's and employees' contributions plus interest thereon, if he were a member of the Provident Fund under the Employees' Provident Funds Scheme, 1952, the employer shall pay the difference to the member as compensation/special contribution.

9. No amendment of the rules of the provident fund shall be made without the previous approval of the Central Provident Fund Commissioner. Where any amendment is likely to affect adversely the interests of the employees, the Central Provident Fund Commissioner shall, before giving his approval, give a reasonable opportunity to the employees to explain their point of view.

[No. 11/14/67-PF.II.]

DALJIT SINGH, Under Secy.

(Department of Rehabilitation)
(Office of the Chief Settlement Commissioner)
New Delhi, the 4th September 1967

S.O. 3287.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints for the Union Territory of Delhi, Shri Goswami Harjiwan Lal, Settlement Officer in the Office of the Regional Settlement Commissioner, Delhi, as Managing Officer for the custody, management and disposal of compensation pool with effect from the date he took over charge of his office.

[No. F. 6(5)AGZ/67.]

S.O. 3288.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints for the States of Punjab and Haryana, Shri R. N. Sehgal, Assistant Settlement Officer in the Office of the Regional Settlement Commissioner, Jullundur as Managing Officer for the custody, management and disposal of compensation pool with effect from the date he took over charge of his office.

[No. F. 7/48/55-SII/AGZ.]

A. G. VASWANI,
Settlement Commissioner(A) & Ex-
Officio Under Secy.

(Department of Rehabilitation)
(Office of the Chief Settlement Commissioner)

New Delhi, the 5th September 1967

S.O. 3289.—The Custodian General in exercise of the powers conferred on him by Sub-Section (3) of Section 55 of the Administration of Evacuee Property Act, 1950 (31 of 1950), hereby delegates with effect from the forenoon of 5th September, 1967, to Shri Rajni Kant all powers vested in him under the said Act.

[No. 5(8)AGZ/65.]

G. D. KSHETRAPAL,
Custodian General of Evacuee Property.

(Department of Rehabilitation)
(Office of the Chief Settlement Commissioner)
New Delhi, the 5th September 1967

S.O. 3290.—In exercise of the powers conferred by Section 5 of the Administration of Evacuee Property Act, 1950 (31 of 1950), the Central Government hereby appoints Shri Rajni Kant as Deputy Custodian General of Evacuee Property for the purpose of performing the functions assigned to such Deputy Custodian General by or under the said Act w.e.f. the 5th September, 1967.

[No. 5(8)AGZ/65.]

G. D. KSHETRAPAL,
Chief Settlement Commissioner,
and Jt. Secy.

(Department of Rehabilitation)**(Office of the Regional Settlement Commissioner)***Jullundur, the 7th September 1967*

S.O. 3291.—In exercise of the powers conferred on me under sub-section (3) of section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, I, Harish Chandar, Regional Settlement Commissioner, Jullundur, appoint Shri S. N. Behl, Assistant Settlement Commissioner, Jullundur, and authorize him to perform the following function on my behalf:—

1. To evaluate the acquired evacuee urban agricultural lands under Rule 34-B of Chapter VA of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.
2. To hear and decide the objections under rule 92 of the Displaced Persons (Compensation & Rehabilitation) Rules, 1955, against the sale of any property and acquired evacuee urban agricultural land, made under rule 90 or 91 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955.

[No. RSCJ/23/23/20/67-Admn.]

S.O. 3292.—In exercise of the powers conferred on me under sub-section (3) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, I, Harish Chandar, Regional Settlement Commissioner, delegate to Shri S. N. Behl, Assistant Settlement Commissioner, Jullundur, the following powers with effect from the 1st of August, 1967:—

1. To hear and decide appeals under Section 22 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954.
2. To decide cases falling under sub-clause (b) of Section 9 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

[No. RSCJ/23/23/20/67-Admn.]

New Delhi, the 8th September 1967

S.O. 3293.—In exercise of my powers under sub-rule (10) of Rule 90 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, I, Harish Chandar, Regional Settlement Commissioner, Jullundur, appoint Sarvashri U. S. Gill and R. N. Sehgal, Managing Officers for the purpose of accepting the bids in respect of acquired evacuee urban agricultural land and acquired evacuee properties, which are equal to or above the reserve price or the lower bid acceptance level wherever applicable.

They shall also exercise my powers under the first proviso to sub-rule (11) of Rule 90 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, for the purpose of extending period for deposit of the balance sale price in respect of acquired evacuee urban agricultural land and acquired evacuee properties respectively.

[No. RSCJ/23/23/20/67-Admn.]

HARISH CHANDAR,
Regional Settlement Commissioner,
Jullundur.

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 25th August 1967

S.O. 3294—In pursuance of sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12, and sub-rule (1) of the rule 24, read with rule 34, of the Central Civil Services (Classification, Control & Appeal) Rules, 1965, the President hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Irrigation and Power No. S.R.O. 617, dated the 28th February 1957 namely :—

In the Schedule to the said notification.

1	2	3	4	5
(1) In Part I.—General Central Service, Class II				
(a) for the existing entries, under the heading "Ministry of Irrigation and Power", the following entries shall be substituted, namely :—				
"(i) All technical posts	Joint Secretary	Joint Secretary	All	..
(ii) Research Assistant	Joint Secretary	Joint Secretary	All	..
(b) after the entries under the heading "Ministry of Irrigation and Power", as so substituted, the following headings and entries shall be inserted, namely :—				
"CHAMBAL CONTROL BOARD.				
All posts	Joint Secretary, Ministry of Irrigation and Power.	Joint Secretary, Ministry of Irrigation and Power	All	..
FARAKKA BARRAGE CONTROL BOARD.				
All posts	Chief Engineer, Ministry of Irrigation and Power.	Chief Engineer, Ministry of Irrigation and Power.	All	..
GANGA DISCHARGE CIRCLE.				
All posts	Chief Engineer, Ministry of Irrigation and Power.	Chief Engineer, Ministry of Irrigation and Power.	All	..
CENTRAL WATER AND POWER COMMISSION (WATER WING) AND (POWER WING)				
All technical posts	Chairman, Central Water and Power Commission.	Chairman, Central Water and Power Commission.	All	..
(2) In Part II.—General Central Service, Class III				
(a) under the heading "Ministry of Irrigation and Power", for the existing entries, the following entries shall be substituted, namely :—				
"(i) All technical posts	Deputy Secretary (Administration) Ministry of Irrigation and Power.	Deputy Secretary (Administration) Ministry of Irrigation and Power.	All	Joint Secretary, Ministry of Irrigation and Power.
(ii) Posts of S. A. S. Accountant, Technical Assistant, Hindi Assistant, Librarian and Caretaker.	Deputy Secretary (Administration), Ministry of Irrigation and Power.	Deputy Secretary (Administration) Ministry of Irrigation and Power.	All	Joint Secretary, Ministry of Irrigation and Power.

(b) after the entries under the heading "Ministry of Irrigation and Power" as so substituted, for the existing headings and entries, the following headings and entries shall be substituted, namely :—

CHAMIBAL CONTROL BOARD.

All posts	(i) Administrative Unit	Secretary, Chambal Control Board.	Secretary, Chambal Control Board.	All	Joint Secretary, Ministry of Irrigation and Power.
	(ii) Financial Unit	Financial Adviser, Chambal Control Board.	Financial Adviser, Chambal Control Board.	All	Joint Secretary, Ministry of Irrigation and Power.

FARAKKA BARRAGE CONTROL BOARD.

All posts	Secretary, Farakka Barrage Control Board	Secretary, Farakka Barrage Control Board.	All	Chief Engineer, Ministry of Irrigation and Power.
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FARAKKA BARRAGE PROJECT

Chief Engineer's Office.

All posts	Chief Engineer, Barrage Project.	Chief Engineer, Barrage Project.	All	Secretary, Ministry of Irrigation and Power.
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Circle and Division Offices.

Head Draftsman, Superintendent and Head Clerk.	Chief Engineer, Farakka Barrage Project.	Chief Engineer, Farakka Barrage Project.	All	Secretary, Ministry of Irrigation and Power.
All other posts	Superintending Engineer, Farakka Barrage Project.	Superintending Engineer, Farakka Barrage Project.	All	Chief Engineer, Farakka Barrage Project.

GANGA DISCHARGE CIRCLE INCLUDING CIRCLE AND DIVISION OFFICES.

Head Draftsman, Superintendent and Head Clerk	Chief Engineer, Ministry of Irrigation and Power	Chief Engineer, Ministry of Irrigation and Power.	All	Secretary, Ministry of Irrigation and Power.
All other posts	Superintending Engineer, Ganga Discharge Circle.	Superintending Engineer, Ganga Discharge Circle.	All	Chief Engineer, Ministry of Irrigation and Power.

CENTRAL WATER AND POWER COMMISSION (WATER WING)

All posts	Secretary, Central Water and Power Commission.	Secretary, Central Water and Power Commission.	All	Chairman, Central Water and Power Commission.
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Central Water and Power Research Station, Poona.

All posts	Director, Central Water and Power Research Station, Poona.	Director, Central Water and Power Research Station, Poona.	All	Chairman, Central Water and Power Commission.
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Subordinate offices under the control of Central Water and Power Commission.

All posts	Superintending Engineer	Superintending Engineer.	All	Chairman, Central Water and Power Commission.
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1	2	3	4	5
<i>Technical Training Centres under Central Water and Power Commission.</i>				
All posts	Secretary, Central Water and Power Commission.	Secretary, Central Water and Power Commission.	All	Chairman, Central Water and Power Commission.
CENTRAL WATER AND POWER COMMISSION (POWER WING)				
All posts	Member, Central Water and Power Commission.	Member, Central Water and Power Commission.	All	Chairman, Central Water and Power Commission.
<i>Power Research Institute, Bangalore and Bhopal Unit.</i>				
All posts	Director, Power Research Institute, Bangalore.	Director, Power Research Institute, Bangalore.	All	Member, Central Water and Power Commission.
<i>Regional Lead Survey Offices.</i>				
All posts	Member, Central Water and Power Commission.	Member, Central Water and Power Commission.	All	Chairman, Central Water and Power Commission.
3. In Part III—General Central Service Class IV, for all the existing heading and entries, the following headings and entries shall be substituted, namely:—				
CHAMBAL CONTROL BOARD				
All posts (i) Administrative Unit	Assistant Secretary, Chambal Control Board.	Assistant Secretary, Chambal Control Board.	All	Secretary, Chambal Control Board.
(ii) Financial Unit	Assistant Financial Adviser, Chambal Control Board.	Assistant Financial Adviser, Chambal Control Board.	All	Financial Adviser, Chambal Control Board.
FARAKKA BARRAGE CONTROL BOARD.				
All posts	Secretary, Farakka Barrage Control Board.	Secretary, Farakka Barrage Control Board.	All	Chief Engineer, Ministry of Irrigation and Power.
FARAKKA BARRAGE PROJECT				
<i>Chief Engineer's Office.</i>				
All posts	Personal Assistant to Chief Engineer, Farakka Barrage Project.	Personal Assistant to Chief Engineer, Farakka Barrage Project.	All	Chief Engineer, Farakka Barrage Project.
<i>Circle Offices</i>				
All posts	Superintending Engineer	Superintending Engineer	All	Chief Engineer, Farakka Barrage Project.
<i>Division Offices:</i>				
All posts	Executive Engineer	Executive Engineer	All	Superintending Engineer.
GANGA DISCHARGE CIRCLE				
<i>Circle Offices</i>				
All posts	Superintending Engineer, Ganga Discharge Circle.	Superintending Engineer, Ganga Discharge Circle.	All	Chief Engineer, Ministry of Irrigation and Power.
<i>Division Offices.</i>				
All posts	Executive Engineer	Executive Engineer	All	Superintending Engineer Ganga Discharge Circle.

<i>Division Offices.</i> All posts	Executive Engineer	Executive Engineer	All	Superintending Engineer Ganga Discharge Circle.
CENTRAL WATER AND POWER COMMISSION (WATER WING) All posts	Under Secretary	Under Secretary	All	Secretary, Central Water and Power Commission.
<i>Central Water and Power Research Station, Poona.</i> All posts	Administrative Officer, Central Water and Power Research Station, Poona.	Administrative Officer, Central Water and Power Research Station, Poona.	All	Director, Central Water and Power Research Station, Poona.
<i>Subordinate Offices under the Control of the Central Water and Power Commission.</i> All posts in Circle Offices	Superintending Engineer	Superintending Engineer	All	Chairman, Central Water and Power Commission.
All posts in Divisions/ Divisions	Executive Engineer/Deputy Director, In-Charge, of Division.	Executive Engineer/Deputy Director, In-Charge, of Division.	All	Superintending Engineer.
<i>Technical Training Centres under Central Water and Power Commission.</i> All posts	Deputy Director	Deputy Director	All	Secretary, Central Water and Power Commission.
CENTRAL WATER AND POWER COMMISSION (POWER WING) All posts	Under Secretary	Under Secretary	All	Member, Central Water and Power Commission.
<i>Power Research Institute Bangalore and Bhopa, Unit.</i> All posts	Administrative Officer, Power Research Institute, Bangalore	Administrative Officer, Power Research Institute, Bangalore.	All	Director, Power Research Institute, Bangalore.
<i>Regional Survey Offices.</i> All posts	Deputy Director, Regional Load Survey Office concerned.	Deputy Director, Regional Load Survey Office concerned.	All	Member, Central Water and Power Commission.
<i>Training Centres for Training Thermal Station personnel.</i> All posts	Deputy Director concerned	Deputy Director concerned	All	Member, Central Water and Power Commission.

[No. 10/1/65-sec. (V) (Vol. II)].
G. K. DOGRA, Dy. Secy.

